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EDUCATION

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Effective Dates. Acts 2013, No. 1334, § 2: Apr. 18, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the constitutionality of certain provisions of the Arkansas Public School Choice Act of 1989, § 6-18-206, has been called into question by a federal court but that the order is stayed while the decision is being appealed; that thousands of public school students currently are attending public schools in nonresident school districts under that law; that there is now uncertainty among school districts, public schools, parents, and students about the viability of those transfers and transfers for the 2013-2014 school year; that the

deadline for requesting transfers under the law is July 1; and that this act is immediately necessary to resolve that uncertainty before the 2013-2014 school year and provide continuity of education for the transferred students. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-18-101. Qualifications for valedictorian and salutatorian.

(a)(1) Only a student who has successfully completed a minimum core of high school courses shall be eligible for the honor of serving as a valedictorian or salutatorian of his or her graduating class.

(2) Only a student who has successfully completed the minimum core of high school courses with a minimum grade point established by the school district or its equivalent shall be eligible for distinction as an honor graduate of a senior class in a high school in this state.

(b) For the purpose of meeting the requirements of subsection (a) of this section, the student must complete the minimum core of courses recommended by the Arkansas Higher Education Coordinating Board and the State Board of Education pursuant to § 6-61-217 enlisted during the period of his or her enrollment in high school.

(c) Only a student who is enrolled in a course of study containing the minimum core of high school courses recommended by the coordinating board and the state board pursuant to § 6-61-217 shall be eligible for membership in the National Honor Society or any equivalent academic honor society.

(d)(1) A school district may establish an honor roll system to recognize or reward students for academic achievement.

(2) A school district shall not be prohibited from identifying students who qualify for the honor roll or who are eligible to serve as valedictorian or salutatorian of the students' graduating class or who qualify for honor graduate status under this section.

(3)(A) A parent or student who does not want to have the student identified as an honor student or listed on the honor roll shall submit a written request to the principal of the school requesting that the student not be identified.

(B) The school and school district shall not identify any student who has submitted or whose parent has submitted a written request under subdivision (d)(3)(A) of this section.

History. Acts 1991, No. 980, §§ 1, 2; remaining subsection accordingly; in 1993, No. 1117, § 1; 1997, No. 977, § 2; (d)(3)(B), inserted "or whose parent has submitted" and substituted "(d)(3)(A)" for 2005, No. 390, § 1; 2009, No. 376, § 34.

Amendments. The 2009 amendment deleted former (d) and redesignated the "(c)(3)(A)"; and made minor stylistic changes.

6-18-102. Legislative findings — School uniform policy.

(a) The General Assembly hereby finds and determines that the clothes and footwear worn by students in the public schools often preoccupy and distract students from their major purpose for being in school, that of becoming educated in math, science, English, history, and other subjects. The General Assembly further finds that student competition over clothes and footwear has, in several instances, led to violence and injuries during school hours; whereas, in those Arkansas schools that have adopted school uniforms, disparities in student socioeconomic levels are less obvious and disruptive incidents are less likely to occur.

(b)(1) The school district board of directors may refer the issue of a dress code to the qualified electors of the district at any annual school election.

(2) If a majority of the qualified electors of the district voting thereon at the election vote for the adoption of a school uniform policy, the school district board of directors shall prescribe appropriate school uniforms and implement the policy.

(3) If a majority of the qualified electors of the district voting thereon at the election vote against the adoption of a school uniform policy, the school district board of directors may refer the question again to the qualified electors of the district only after a minimum period of one (1) year.

(4)(A) Qualified electors of the district may at any time by petition have the question of implementing a uniform dress code voted upon at the next school election.

(B) The petition shall be signed by not less than five percent (5%) of the qualified electors in the district.

(c) Any school uniform policy adopted by a school district shall provide for individual students to make application to opt out of the uniform requirements with parental consent when no other reasonable alternative placement for the student exists.

(d) Any school district that has adopted and implemented a district policy to require a uniform dress code before the 2000 annual school election shall be exempt from the provisions of this section.

(e)(1) This section does not limit the ability of a school district or a particular school within a district to adopt and implement a school uniform policy.

(2) A school district may implement a school uniform policy without submitting the issue to the electors of the district.

(f) The Department of Education and education service cooperatives shall, when possible, assist public schools by providing information regarding uniform dress codes upon request from public school administrators.

History. Acts 1995, No. 1239, §§ 1-3; 1999, No. 1301, § 1; 2007, No. 617, § 11; 2013, No. 1155, § 16.

Amendments. The 2013 amendment deleted former (b)(1), (b)(2)(A), (b)(4)(A) and (b)(4)(B) and redesignated the remaining subdivisions accordingly; deleted "In addition to the 2000 annual election" and substituted "annual school election" for "subsequent school election" in current

(b)(1); inserted "district" and "school district" throughout (b); deleted "shall" preceding "vote" in (b)(2); deleted "only" preceding "refer" and inserted "only" after "district" in (b)(3); deleted "other than subsection (g)" at the end of (d); in (e)(1), substituted "This section does not" for "Nothing in this section shall be construed to"; and deleted (g) and (h).

CASE NOTES

Constitutionality.

School board members had qualified immunity as to claims asserted against them in their individual capacities in a 42 U.S.C.S. § 1983 suit. They did not violate students' clearly established U.S. Const. Amends. I and XIV rights when they adopted a school uniform policy pursuant to this section, and there was not evidence that the members directly participated in the enforcement of that policy or of a literature review policy by two school administrators. *Lowry v. Watson Chapel Sch. Dist.*, 508 F. Supp. 2d 713 (E.D. Ark. 2007).

Two school administrators did not have qualified immunity as to claims asserted against them in their individual capacities in a 42 U.S.C.S. § 1983 suit filed by several students because although the students' U.S. Const. Amends. I and XIV rights were not violated by the adoption of a school uniform policy pursuant to this section, it was not clear that the adminis-

trators had not knowingly violated their clearly established constitutional rights when enforcing that policy and a literature review policy. It appeared that the administrators improperly punished the students for the content of their speech because the students were disciplined for wearing black armbands and distributing literature to protest the school uniform policy, which conduct did not appear to violate any school policy. *Lowry v. Watson Chapel Sch. Dist.*, 508 F. Supp. 2d 713 (E.D. Ark. 2007).

Eastern District of Arkansas, Pine Bluff Division, district court believes that the Eighth Circuit appeals court would take the same approach as its sister Fifth and Sixth Circuit courts when evaluating the facial constitutionality of a school uniform policy adopted pursuant to subsection (a) of this section and that it would conclude that such a policy does not violate students' clearly established U.S. Const. Amends. I and XIV rights, as long as the

policy is unrelated to the suppression of expression and does not burden substantially more speech than is necessary. The legislative findings set out in subsection (a) of this section establish the important

or substantial government interests reflected in dress code and school uniform policies adopted pursuant to the statute. *Lowry v. Watson Chapel Sch. Dist.*, 508 F. Supp. 2d 713 (E.D. Ark. 2007).

6-18-104. Placement.

All students in grades kindergarten through twelve (K-12) of the public schools of this state shall be placed in an educational program that includes the minimum core curriculum established under § 6-61-217 unless a medical doctor and the parent or custodian of the student certify that a medical condition exists that impairs the student's cognitive functioning and that the student should not pursue the minimum core curriculum.

History. Acts 1997, No. 1195, § 1; 2009, No. 376, § 35.

Amendments. The 2009 amendment deleted (b).

6-18-106. Classroom assignment of multiple birth siblings.

(a) As used in this section:

(1) "Multiple birth sibling" means a twin, triplet, quadruplet, or other sibling resulting from a multiple birth; and

(2) "Parent" means the parent, legal guardian, or other person having custody or charge of a student enrolled in a public school.

(b) Not later than the fourteenth day before the first day of school, a parent of multiple birth siblings who are assigned to the same grade level and school, in prekindergarten through grade six (PreK-6), may request in writing that the school place the siblings in the same classroom or in separate classrooms.

(c) Except as provided by subsection (e) or (g) of this section, a school shall provide the multiple birth siblings with the classroom placement requested by the parent.

(d) In the event that one (1) parent's election under subsection (c) of this section differs from another parent's election under subsection (c) of this section, the school shall determine the appropriate placement of the multiple birth siblings.

(e) The school may direct a classroom placement for the multiple birth siblings that differs from the parent's request if:

(1) Thirty (30) instructional days have lapsed since the date the multiple birth siblings began the classroom placement made at the parent's request; and

(2) After consulting with the teacher of each classroom in which the multiple birth siblings are placed, the school determines that the classroom placement requested by the parent is:

(A) Detrimental to the educational achievement of one (1) or more of the multiple birth siblings;

(B) Disruptive to the classroom learning environment where the multiple birth sibling is assigned; or

(C) Disruptive to the school's educational or disciplinary environment.

(f) A parent may appeal the school's classroom placement of multiple birth siblings in the manner provided by school district policy.

(g) A school district is not required to place multiple birth siblings in separate classrooms if the request would require the school district to add an additional class to the grade level of the multiple birth siblings.

(h) A school district shall adopt a written policy concerning the procedures for classroom placements of multiple birth siblings that is consistent with this section.

(i) This section does not affect a right or obligation of the school or school district regarding student placement decisions of the school district under:

- (1) The Children With Disabilities Act of 1973, § 6-41-201 et seq.;
- (2) The Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it exists on July 27, 2011; or
- (3) Written school district disciplinary policies.

History. Acts 2011, No. 906, § 1.

6-18-107. Enrollment of military dependents.

(a) As used in this section:

(1) "Branch of the United States armed forces" means:

- (A) United States Army;
- (B) United States Air Force;
- (C) United States Marine Corps;
- (D) United States Navy;
- (E) Army or Air National Guard; or
- (F) United States Coast Guard;

(2) "Military dependent" means a child who:

(A) Is enrolled in kindergarten through grade twelve (K-12) in a public school; and

(B) Resides in the household of a person who is on active duty in or serving in the reserve component of a branch of the United States armed forces;

(3)(A) "Public school" means a state-supported school or public charter school serving students in prekindergarten, kindergarten, elementary, middle, or secondary grades in Arkansas.

(B) "Public school" includes without limitation:

- (i) Alternative learning environments;
- (ii) The Arkansas School for the Blind;
- (iii) The Arkansas School for the Deaf; and
- (iv) The Arkansas School for Mathematics, Sciences, and the Arts.

(b) The Department of Education shall require a public school to report the enrollment of a student who is a military dependent:

- (1) In the Arkansas Public School Computer Network; or
- (2) If the public school does not report through the Arkansas Public School Computer Network, as established by rule.

(c) The State Board of Education shall promulgate rules to implement this section.

History. Acts 2013, No. 514, § 1.

6-18-108. Continuity of education for public school choice students.

(a) As used in this section:

(1) "Nonresident district" means a school district other than a student's resident district; and

(2) "Resident district" means the school district where the student resides as determined under § 6-18-202.

(b) If a public school choice request is approved by a nonresident district under a provision of law that is later declared unconstitutional by a court or is repealed, the student may continue to attend school in the nonresident district until the student completes his or her secondary education.

(c) A present or future sibling of a student who continues enrollment in the nonresident district under this section may enroll in or continue enrollment in the nonresident district until the sibling completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms, or exceed the regulations and standards established in law.

(d) The enrollment of a student in a nonresident district under this section is subject to:

(1) The nonresident district's written policies for renewal of the transfer; and

(2) Other provisions of law concerning attendance and enrollment in public schools.

History. Acts 2013, No. 1334, § 1.

SUBCHAPTER 2 — ATTENDANCE

SECTION.

6-18-201. Compulsory attendance — Exceptions.

6-18-202. Age and residence for attending public schools.

6-18-203. Attendance in district other than district of residence.

6-18-206. [Repealed.]

6-18-207. Minimum age for enrollment in public school.

6-18-209. Adoption of student attendance policies — Effect of unexcused absences.

6-18-220. Additional absences granted

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for participation in FFA, FHA, and 4-H programs — Equal treatment.

6-18-222. Penalty for unexcused absences — Revocation of driving privilege.

6-18-227. Arkansas Opportunity Public School Choice Act of 2004.

6-18-230. Minimum age for enrolling in prekindergarten.

6-18-231. Additional absences for Arkansas National Guard members.

Effective Dates. Acts 2009, No. 29, § 2: Feb. 4, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that families in Arkansas are suffering an undue hardship created by the establishment of new kindergarten enrollment criteria; that some children currently enrolled in prekindergarten programs are not eligible to enroll in kindergarten due to newly implemented criteria; that the immediate implementation of this act is necessary for public school districts and families of these children to prepare for the enrollment of these students in kindergarten for the 2009-2010 school year; that the failure to allow these children to enroll in kindergarten will cause irreparable harm to the education of these children and the well-being of this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 426, § 3: Mar. 13, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that families in Arkansas are suffering an undue hardship created by the establishment of new kindergarten enrollment criteria; that some children currently enrolled in prekindergarten programs are not eligible to enroll in kindergarten due to newly implemented criteria; that the immediate implementation of this act is necessary for public school districts and families of these children to prepare for enrollment of students in prekindergarten and kindergarten programs during the 2009-2010 school year and beyond; and that this act is immediately necessary because failure to allow consistent enrollment age criteria will cause irreparable harm to the education of these children and the well-being of this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its

approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1227, § 7: Mar. 13, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Public School Choice Act of 1989, § 6-18-206, have been found to be unconstitutional by a federal court; that thousands of public school students are currently attending public schools in nonresident school districts under that law; that there is now uncertainty about the viability of those transfers and future transfers; that this act repeals the disputed provisions of that law while preserving the opportunity for public school choice; and that this act is immediately necessary to resolve the uncertainty in the law before the 2013-2014 school year and preserve existing student transfers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) "

Acts 2013, No. 600, § 24: Apr. 4, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that state oversight and intervention into distressed school districts is critical to the delivery of a constitutionally adequate education; and that the changes made in this act are immediately necessary for the state to meet this constitutional obligation. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 1227, § 7: Apr. 16, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Public School Choice Act of 1989, § 6-18-206, have been found to be unconstitutional by a federal court; that thousands of public school students are currently attending public schools in nonresident school districts under that law; that there is now uncertainty about the viability of those transfers and future transfers; that this act repeals the disputed provisions of that law

while preserving the opportunity for public school choice; and that this act is immediately necessary to resolve the uncertainty in the law before the 2013-2014 school year and preserve existing student transfers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-18-201. Compulsory attendance — Exceptions.

(a) Under the penalty for noncompliance set by law, every parent, guardian, or other person residing within the State of Arkansas having custody or charge of a child five (5) years of age through seventeen (17) years of age on or before the date established in § 6-18-207 for the minimum age for enrollment in public school shall enroll and send the child to a public, private, or parochial school or provide a home school for the child, as described in § 6-15-501 et seq., with the following exceptions:

(1)(A) A parent, guardian, or other person residing within the state and having custody or charge of a child may elect for the child not to attend kindergarten if the child will not be six (6) years of age on the date established in § 6-18-207 for the minimum age for enrollment in public school of that school year.

(B)(i) If an election is made, the parent, guardian, or other person having custody or charge of the child shall file a signed kindergarten waiver form with the local school district administrative office.

(ii) The kindergarten waiver form shall be prescribed by rule of the Department of Education.

(C) Upon the filing of the kindergarten waiver form, the child shall not be required to attend kindergarten in that school year;

(2) Any child who has received a high school diploma or its equivalent as determined by the State Board of Education is not subject to the attendance requirement;

(3) Any child sixteen (16) years of age or older who is enrolled in a postsecondary vocational-technical institution, a community college, or a two-year or four-year institution of higher education is not subject to the attendance requirement; and

(4)(A) Any child sixteen (16) years of age or older who is enrolled in an adult education program under subsection (b) of this section or in

the Arkansas National Guard Youth Challenge Program is not subject to the attendance requirement.

(B) The requirements in subsection (b) of this section do not apply to the Arkansas National Guard Youth Challenge Program.

(b) A local school district may grant a waiver of the attendance requirement to any student age sixteen (16) or seventeen (17) to enroll in an adult education program only after all of the following requirements have been met:

(1) The student makes formal application to the school district for a waiver to enroll in an adult education program;

(2)(A) After formal application and prior to any further action on the application, the student shall be administered either a test for adult basic education or a General Educational Development Practice Test under standardized testing conditions by a public school official designated by the school and shall score 8.5 grade level or above on the test for adult basic education or a minimum score of four hundred fifty (450) on each section and a minimum composite score of four hundred ninety (490) on the General Educational Development Practice Test.

(B) Provided, however, that the minimum test scores shall not be required of any student who is subject to the attendance requirement of this section but who was not enrolled in any school district during the previous school year;

(3) The student and the student's parents, guardians, or persons in loco parentis meet with the school counselor to discuss academic options open to the student;

(4) The school district determines that the student is a proper candidate for enrollment in adult education, contingent upon approval by the appropriate adult education program;

(5) The adult education program reviews the student's school and testing records and agrees to admit the student into the adult education program;

(6) The adult education program shall report attendance of all sixteen-year-old and seventeen-year-old enrollees to the sending school district on at least a monthly basis;

(7)(A) The adult education program shall require for continued enrollment a minimum of twenty (20) hours per week of class attendance and instruction.

(B) Provided, however, that a minimum of ten (10) hours shall be required for any student who is employed for thirty (30) hours or more each week;

(8) The student, the student's parents, guardians, or persons in loco parentis, and the administrative head of the adult education program agree in writing that the student will attend the requisite number of hours per week and maintain appropriate conduct as outlined in the local adult education program student handbook;

(9) In the event that a more appropriate assessment test or testing and assessment mechanism shall be developed to determine a reason-

able level of competency for success at the adult education level, that test or mechanism shall be substituted, with the approval of the Adult Education Section of the Department of Career Education, for the tests required in subdivision (b)(2) of this section;

(10) In the event that a student does not attend class as mandated in this subsection or make reasonable progress toward the completion of the adult education curriculum, the student shall reenroll in a public school within five (5) days from the date the student is released from the adult education program; and

(11) The requirements in this subsection shall not apply to students enrolled in a private, parochial, or home school in the state.

(c) Students age sixteen (16) or seventeen (17) enrolled in a private, parochial, or home school who desire to enroll in an adult education program shall meet the following requirements:

(1)(A) Students shall apply for enrollment to the adult education program.

(B) A student enrolled in a private or parochial school shall provide a letter from the principal or administrator of the private or parochial school to verify enrollment and shall score 8.5 grade level or above on the test for adult basic education or a minimum score of four hundred fifty (450) on each section and a minimum composite score of four hundred ninety (490) on the General Educational Development Practice Test.

(C) A student that is home schooled shall provide a notarized copy of the notice of intent to home school provided to the superintendent of the local school district as required by § 6-15-503;

(2) The student and the student's parents, guardians, or persons in loco parentis shall meet with the appropriate staff of the adult education program to discuss academic options open to the student;

(3) The adult education program administrators shall review the student's school and testing records prior to allowing admission to an adult education program;

(4)(A) Except as provided in subdivision (c)(4)(B) of this section, the adult education program shall require for continued enrollment a minimum of twenty (20) hours per week of class attendance and instruction.

(B) A minimum of ten (10) hours shall be required for any student who is employed for thirty (30) hours or more each week;

(5) The student, the student's parents, guardians, or persons in loco parentis, and the administrative head of the adult education program agree in writing that the student will attend the requisite number of hours per week and maintain appropriate conduct as outlined in the local adult education program student handbook;

(6) In the event that a student does not attend class as mandated in this subsection or make reasonable progress toward the completion of the adult education curriculum, the student shall reenroll in either a public, private, parochial, or home school within five (5) days from the date that the student is released from the adult education program; and

(7) If a home school student is accepted into the adult education program, the student's parent, guardian, or person standing in loco parentis shall send written notification to the local public school superintendent of his or her intent to participate in the adult education program.

(d) Students age sixteen (16) or above enrolled in a private, parochial, or home school who desire to take the General Educational Development Test shall meet the following requirements:

(1) A student shall not be required to obtain permission or approval from any official in a public school district before being allowed to take the test;

(2) A student enrolled in a private or parochial school shall provide a letter from the principal or administrator of the private or parochial school to verify enrollment;

(3) A student enrolled in a home school shall provide a notarized copy of the notice of intent to home school provided to the superintendent of the local school district as required by § 6-15-503; and

(4) A student enrolled in a private, parochial, or home school must achieve at least the minimum official General Educational Development Practice Test scores.

(e)(1) Nothing in this section shall prohibit a public school district from continuing with an adult education program to provide educational services to sixteen-year-olds and seventeen-year-olds enrolled in public school if a contract is negotiated between the district and the adult education program that includes:

(A) Financial considerations for serving the students enrolled in the public school districts; and

(B) Accountability measures to ensure monitoring of student progress and attendance.

(2) Any contract for services by an adult education program for sixteen-year-olds and seventeen-year-olds shall be submitted to the Department of Career Education for final approval.

(3) Any student served by an adult education program under a contractual arrangement as described in this subsection shall not be counted in any enrollment numbers reported by the adult education programs for state or federal funding.

(f) Any child who will be six (6) years of age on or before October 1 of the school year of enrollment and who has not completed a state-accredited kindergarten program shall be evaluated by the district and may be placed in the first grade if the results of the evaluation justify placement in this first grade and the child's parent agrees with placement in the first grade. Otherwise, the child shall be placed in kindergarten.

History. Acts 1983 (Ex. Sess.), No. 60, § 3; 1985, No. 1029, § 2; 1985 (1st Ex. Sess.), No. 40, § 1; 1985 (1st Ex. Sess.), No. 42, § 1; A.S.A. 1947, §§ 80-1503, 80-1503.4; Acts 1987, No. 319, § 1; 1989, No. 598, § 1; 1991, No. 320, § 1; 1994 (2nd Ex. Sess.), No. 30, § 1; 1994 (2nd Ex. Sess.), No. 31, § 1; 1995, No. 837, §§ 1, 2; 1997, No. 1148, § 1; 1997, No. 1230, § 1; 1999, No. 570, § 1; 2001, No. 1514, § 1;

2001, No. 1535, § 1; 2001, No. 1659, § 1; 2003, No. 604, §§ 1-3; 2009, No. 215, § 1; 2009, No. 376, § 36.

Amendments. The 2009 amendment by No. 215 substituted “the date established in § 6-18-207 for the minimum age for enrollment in public school” for “September 15 of that year” in the introductory language of (a); substituted “the date es-

tablished in § 6-18-207 for the minimum age for enrollment in public school” for “September 15 of that particular school year” in (a)(1)(A); substituted “rule” for “regulation” in (a)(1)(B)(ii); and made minor stylistic changes.

The 2009 amendment by No. 376 deleted (a)(5).

6-18-202. Age and residence for attending public schools.

(a) As used in this section:

(1) “Reside” means to be physically present and to maintain a permanent place of abode for an average of no less than four (4) calendar days and nights per week for a primary purpose other than school attendance;

(2) “Resident” means a student whose parents, legal guardians, persons having legal, lawful control of the student under order of a court, or persons standing in loco parentis reside in the school district; and

(3) “Residential address” means the physical location where the student’s parents, legal guardians, persons having legal, lawful control of the student under order of a court, or persons standing in loco parentis reside.

(b)(1) The public schools of any school district in this state shall be open and free through completion of the secondary program to all persons in this state between the ages of five (5) and twenty-one (21) years whose parents, legal guardians, or other persons having lawful control of the person under an order of a court reside within the school district and to all persons between those ages who have been legally transferred to the district for education purposes.

(2) For purposes of this section, a student may use the residential address of a legal guardian, person having legal, lawful control of the student under order of a court, or person standing in loco parentis only if the student resides at the same residential address and if the guardianship or other legal authority is not granted solely for educational needs or school attendance purposes.

(3) Any school district may require a parent, legal guardian, or other person in loco parentis who enrolls a student in a school district to sign a statement under oath attesting to his or her residential address or to provide other proof that a student is a resident of the school district as defined by this section.

(c) Any person eighteen (18) years of age or older may establish a residence separate and apart from his or her parents or guardians for school attendance purposes.

(d) In order for a person under eighteen (18) years of age to establish a residence for the purpose of attending the public schools separate and apart from his or her parents, guardians, or other persons having lawful control of him or her under an order of a court, the person must

actually reside in the district for a primary purpose other than that of school attendance.

(e)(1) A school district shall not admit for ten (10) school days or more a student who is not a resident of the school district or is not otherwise entitled by law to attend the school district.

(2)(A) A school district that determines that a student who resides within its boundaries is unlawfully attending another school district shall send written notification to the superintendent of the other school district that the student is unlawfully attending the school district.

(B) The written notification to the superintendent shall include a reasonable description of the location of the residence, including a street address if available, and other information that enables the school district to determine that the student is a resident of the school district.

(3)(A) The school district that receives the notification under subdivision (e)(2) of this section shall immediately investigate and determine which school district the student is required to attend.

(B) The school district conducting the investigation shall:

(i)(a) Complete the investigation within ten (10) business days after receiving the written notice.

(b) The school district conducting the investigation may extend the investigation ten (10) business days in a case that involves five (5) or more students by submitting written notice within the first ten (10) business days of the investigation to the school district that submitted the notification under subdivision (e)(2) of this section;

(ii) Make a determination as to which school district the student is required to attend; and

(iii) Send a written report to the school district that submitted the notification, in writing, of the findings of the investigation and the documentation supporting its determination.

(4) A student who is determined to be unlawfully attending a school not within the student's resident district shall be immediately barred from attending the nonresident school district.

(5)(A) The school district that submitted the notification may within five (5) days after receiving the written report, appeal the decision of the school district that conducted the investigation.

(B) The appeal shall be made to the Department of Education.

(C) The school district that conducted the investigation shall have the burden of proof in proving that the student is entitled to attend its school.

(6)(A) The department shall promulgate rules to establish the procedure for a department hearing officer to investigate the appeal and conduct a hearing.

(B) The department hearing officer may compel disclosure of information from both of the school districts in his or her duties.

(C)(i) The decision of the department hearing officer may be appealed by either school district to the circuit court of the county where the school district that is appealing the decision is located.

(ii) The circuit court shall affirm the decision of the department hearing officer if it is supported by substantial evidence.

(f) Any person who knowingly gives a false residential address for purposes of public school enrollment is guilty of a violation and subject to a fine not to exceed one thousand dollars (\$1,000).

(g) This section shall not be construed to restrict a student's ability to participate in a tuition agreement with a nonresident school district or to officially transfer to another school district pursuant to the Public School Choice Act of 2013, § 6-18-1901 et seq.

History. Acts 1987, No. 466, § 1; 1987, No. 591, § 1; 1989, No. 895, § 1; 1999, No. 391, § 9; 1999, No. 663, § 1; 2005, No. 1994, § 64; 2005, No. 2121, § 6; 2009, No. 1310, §§ 1, 2; 2013, No. 1227, § 3.

Amendments. The 2009 amendment rewrote (e); and, in (f), substituted "one

thousand dollars (\$1,000)" for "five hundred dollars (\$500)" and made a minor stylistic change.

The 2013 amendment, in (g), substituted "Public School Choice Act of 2013, § 6-18-1901 et seq." for "Arkansas Public School Choice Act of 1989, § 6-18-206."

6-18-203. Attendance in district other than district of residence.

(a)(1) Except as provided in subdivision (a)(2) of this section, when any person owns a tract of land on which the person resides and which tract of land is located partially in one (1) school district and partially in another, the school-age children of that person shall attend school in the school district where the residence is located.

(2) When a person owned an undivided tract of land on which that person domiciled for ten (10) or more years prior to August 13, 2001, and which undivided tract of land is located partially in one (1) school district and partially in another, the school-age children of that person, and those of his or her successors in title, shall be eligible to attend the school in either of the districts regardless of the location of the home on the property.

(b)(1) A child or ward of a person who before April 1, 2009, is at least a half-time employee of a public school district in this state or is a full-time employee of an education service cooperative and is a resident of another school district in this state may enroll in and attend school in:

(A) The school district in which the parent or guardian resides;

(B) The school district in which the parent or guardian is at least a half-time employee of that public school district; or

(C) Any school district located in the county where the main office of the education service cooperative is located.

(2) A child or ward of a person who on or after April 1, 2009, is a full-time employee of a public school district or an educational service cooperative and is a resident of another school district in this state may enroll in and attend school in:

(A) The school district in which the parent or guardian resides;

(B) The school district in which the parent or guardian is a full-time employee of that public school district; or

(C) Any school district located in the county where the main office of the educational service cooperative is located.

(3)(A) A student enrolled in kindergarten through grade eight (K-8) under subdivision (b)(1) or (b)(2) of this section shall be entitled to continue attending school in the enrolled school district, regardless of a change to the employment status of the parent or guardian, until the end of the school year if:

(i) The parent or guardian was employed by the school district or education service cooperative for a minimum of one hundred twenty (120) days before leaving employment; and

(ii) The student maintains uninterrupted enrollment in the school district and is not expelled after the parent or guardian of the student is no longer employed by the school district or education service cooperative.

(B) A student enrolled in grade nine through twelve (9-12) under subdivision (b)(1) or (b)(2) of this section shall be entitled to continue attending school in the enrolled school district, regardless of change to the employment status of the parent or guardian, through the completion of the secondary program, if:

(i) The parent or guardian was employed by the school district or education service cooperative for a minimum of three (3) consecutive contract years, with a minimum of one hundred twenty (120) contract days each year, before leaving employment; and

(ii) The student maintains uninterrupted enrollment in the school district and is not expelled after the parent or guardian of the student is no longer employed by the school district or education service cooperative.

(4) A nonenrolled sibling of a student who attends a nonresident school district under this subsection shall have no right to future enrollment based on the privilege of enrollment extended to his or her sibling if the parent or guardian is no longer a full-time employee of the school district or education service cooperative.

(5)(A) The General Assembly recognizes and embraces the responsibility of the state to promote desegregation of its schools and finds that this enactment affects such a limited class of students that desegregation will not be impeded. If, however, unforeseen circumstances result in a finding by a court that a school district is unlawfully segregated in whole or in part as a result of these provisions, the provisions in this subsection shall not apply to the children or wards of teachers in that district.

(B) Therefore, the provisions in this subsection shall not apply to the children or wards of those teachers who reside in school districts that may hereafter be found by a court to be unlawfully segregated if the finding is based upon segregation that was caused in whole or in part by the effects of these provisions.

(c) When any employee of the Department of Correction lives on department property or will live on department property as the result of a transfer from a unit of the department to another unit, the children

or wards of the employee may complete their education in the school district in which they are enrolled at the time the parent or guardian is transferred.

(d) Any child and that child's sibling or siblings currently attending a nonresident school under subsection (a) of this section shall be allowed to complete all remaining school years at the nonresident district or may attend the resident district if he or she so chooses.

History. Acts 1983, No. 822, § 1; A.S.A. 1947, § 80-1568; Acts 1987, No. 624, § 1; 1991, No. 915, § 1; 1993, No. 1105, § 1; 1995, No. 726, § 1; 1997, No. 1304, § 1; 1999, No. 947, § 1; 2001, No. 1207, § 1; 2003, No. 144, § 1; 2007, No. 379, § 1; 2007, No. 617, § 12; 2009, No. 1368, § 1; 2011, No. 981, § 7.

Amendments. The 2009 amendment rewrote (b).

The 2011 amendment substituted "that public school district" for "a public school" in (b)(1)(B); substituted "is a full-time employee of a public school district" for "is at least a full-time employee of a public school in one (1) school district" in the introductory paragraph of (b)(2); and substituted "that public school district" for "the public school" in (b)(2)(B).

6-18-206. [Repealed.]

Publisher's Notes. This section, concerning public school choice, was repealed by Acts 2013, No. 1227, § 1. The section was derived from Acts 1989, No. 609, §§ 1-13; 1991, No. 214, § 1; 1991, No. 284, §§ 1-3; 1993, No. 655, § 1; 1995, No.

109, § 1; 1997, No. 112, § 10; 1999, No. 391, § 10; 1999, No. 1241, § 1; 2001, No. 1788, § 1; 2003, No. 1272, § 1; 2003 (2nd Ex. Sess.), No. 110, § 1; 2005, No. 2148, § 1; 2007, No. 552, § 1.

6-18-207. Minimum age for enrollment in public school.

(a)(1) A student may enter kindergarten in the public schools of this state if he or she will attain the age of five (5) years on or before August 1 of the year in which he or she is seeking initial enrollment.

(2) Any student who has been enrolled in a state-accredited or state-approved kindergarten program in another state or in a kindergarten program equivalent in another country for at least sixty (60) days, who will become five (5) years old during the year in which he or she is enrolled in kindergarten, and who meets the basic residency requirement for school attendance may be enrolled in kindergarten upon written request to the school district.

(b)(1) Any child may enter the first grade in the public schools of this state if the child will attain the age of six (6) years during the school year in which the child is seeking enrollment and the child has successfully completed a kindergarten program in a public school in this state.

(2) Any child who will be six (6) years of age on or before October 1 of the school year of enrollment and who has not completed a state-accredited kindergarten program shall be enrolled pursuant to § 6-18-201(f).

(3) Any child who has been enrolled in the first grade in a state-accredited or state-approved elementary school in another state or in the first grade equivalent in another country for a period of at least

sixty (60) days, who will become six (6) years of age during the school year in which the child is enrolled in grade one (1), and who meets the basic residency requirement for school attendance may be enrolled in the first grade.

History. Acts 1983 (Ex. Sess.), No. 60, § 2; 1985, No. 1029, § 1; A.S.A. 1947, § 80-1501.2; Acts 1989, No. 598, § 2; 1997, No. 1230, § 2; 1999, No. 570, § 2; 2001, No. 1535, § 2; 2007, No. 462, § 1; 2009, No. 29, § 1; 2013, No. 424, § 1.

Amendments. The 2009 amendment added (a)(3).

The 2013 amendment rewrote (a); and inserted “or in the first grade equivalent in another country” in (b)(3).

6-18-209. Adoption of student attendance policies — Effect of unexcused absences.

(a) The board of directors of each school district in this state shall adopt student attendance policies.

(b) Each school district, as a part of its six-year educational plan, shall develop strategies for promoting maximum student attendance, including, but not limited to, the use of alternative classrooms and in-school suspensions in lieu of suspension from school.

(c) A student attendance policy may include unexcused absences as a mandatory basis for denial of promotion or graduation.

History. Acts 1983 (Ex. Sess.), No. 60, § 4; 1985, No. 1069, § 1; A.S.A. 1947, § 80-1504; Acts 2011, No. 1223, § 1; 2013, No. 1322, § 1.

substituted “excessive absences” for “excessive unexcused absences” in (c).

The 2013 amendment substituted “unexcused” for “excessive” in the section heading and in (c).

Amendments. The 2011 amendment

6-18-220. Additional absences granted for participation in FFA, FHA, and 4-H programs — Equal treatment.

(a) The General Assembly finds and declares that:

(1) The FFA, FHA, and 4-H programs in the state involve an education and learning process that is not otherwise available in the regular curriculum of secondary education in Arkansas;

(2) The principles and practices learned by school students in the FFA, FHA, and 4-H programs are highly beneficial to students;

(3) Participation in such programs should be encouraged; and

(4) One method of encouraging participation in such programs is to grant additional excused absences to students who participate in officially sanctioned activities of those organizations.

(b) Therefore, it is the purpose and intent of this section to assure that class absences of students who are participating in sanctioned FFA, FHA, and 4-H activities are excused to such extent as may be determined by the boards of directors of the respective districts, with the participants in the three (3) programs being treated equally with respect to such absences.

(c) Any school district that grants additional excused absences of FFA member students who attend officially sanctioned FFA activities

shall afford equal treatment to FHA and 4-H member students who attend the same or similar officially sanctioned activities.

History. Acts 1981, No. 245, §§ 1, 2; 1981, No. 382, §§ 1, 2; 1981, No. 689, §§ 1, 2; A.S.A. 1947, §§ 80-1558 — 80-1561; Acts 2011, No. 1223, §§ 2, 3; 2013, No. 1322, §§ 2, 3.

Amendments. The 2011 amendment substituted “grant additional absences to students who participate” for “excuse the

absences of students from regular classes when the students are participating” in (a)(4); and substituted “grants additional” for “excuses” in (c).

The 2013 amendment inserted “excused” preceding “absences” in (a)(4) and (c).

6-18-222. Penalty for unexcused absences — Revocation of driving privilege.

(a)(1)(A)(i) The board of directors of each school district in this state shall adopt a student attendance policy, as provided for in § 6-18-209, which shall include a certain number of unexcused absences that may be used as a basis for denial of course credit, promotion, or graduation.

(ii) However, unexcused absences shall not be a basis for expulsion or dismissal of a student.

(B) The legislative intent is that a student having unexcused absences because of illness, accident, or other unavoidable reasons should be given assistance in obtaining credit for the courses.

(2) The State Board of Career Education shall adopt a student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in an adult education program. The policy shall require a minimum attendance of ten (10) hours per week to remain in the program.

(3) A copy of the school district’s student attendance policy or the State Board of Career Education’s student attendance policy for sixteen-year-olds and seventeen-year-olds enrolled in adult education shall be provided to the parent, guardian, or person in loco parentis of each student enrolled in an adult education program at the beginning of the school year or upon enrollment, whichever event first occurs.

(4)(A)(i) A student’s parent, guardian, or person in loco parentis and the community truancy board, if the community truancy board has been created, shall be notified when the student has accumulated unexcused absences equal to one-half ($\frac{1}{2}$) the total number of absences permitted per semester under the school district’s or the State Board of Career Education’s student attendance policy.

(ii) Notice shall be by telephonic contact with the student’s parent, guardian, or person in loco parentis by the end of the school day in which the absence occurred or by regular mail with a return address on the envelope sent no later than the following school day.

(iii) Notice to the community truancy board, if the community truancy board has been created, shall be by letter to the chair of the community truancy board.

(B) If a community truancy board has been created, the community truancy board shall schedule a conference with the parent,

guardian, or person in loco parentis to establish a plan to take steps to eliminate or reduce the student's absences.

(C) If the community truancy board has scheduled a conference and the student's parent, guardian, or person in loco parentis does not attend the conference, the conference may be conducted with the student and a school official. However, the parent, guardian, or person in loco parentis shall be notified of the steps to be taken to eliminate or reduce the student's absences.

(D)(i) Before a student accumulates the maximum number of unexcused absences allowed in a school district's student attendance policy, the student or the student's parent, guardian, or person in loco parentis may petition the school administration or school district administration for special arrangements to address the student's unexcused absences.

(ii) If special arrangements are granted by the school administration or the school district administration, the arrangements will be formalized into a written agreement to include the conditions of the agreement and the consequences for failing to fulfill the requirements of the agreement.

(iii) The agreement shall be signed by the:

(a) Designee of the school administration or of the school district administration;

(b) Student's parent, guardian, or person in loco parentis; and

(c) Student.

(5)(A) When a student exceeds the number of unexcused absences provided for in the district's or the State Board of Career Education's student attendance policy, or when a student has violated the conditions of an agreement granting special arrangements under subdivision (a)(4)(D) of this section, the school district or the adult education program shall notify the prosecuting authority and the community truancy board, if a community truancy board has been created, and the student's parent, guardian, or person in loco parentis shall be subject to a civil penalty through a family in need of services action in circuit court, as authorized under subdivision (a)(6)(A) of this section, but not to exceed five hundred dollars (\$500) plus costs of court and any reasonable fees assessed by the court.

(B) The penalty shall be forwarded by the court to the school or the adult education program attended by the student.

(6)(A)(i) Upon notification by the school district or the adult education program to the prosecuting authority, the prosecuting authority shall file in circuit court a family in need of services petition pursuant to § 9-27-310 or enter into a diversion agreement with the student pursuant to § 9-27-323.

(ii) For any action filed in circuit court to impose the civil penalty set forth in subdivision (a)(5) of this section, the prosecuting authority shall be exempt from all filing fees and shall take whatever action is necessary to collect the penalty provided for in subdivision (a)(5) of this section.

(B) Municipal attorneys may practice in circuit court for the limited purpose of filing petitions or entering into diversion agreements as authorized by this subdivision (a)(6)(B) if agreed upon by all of the parties pursuant to subdivision (a)(6)(A) of this section.

(7)(A) The purpose of the penalty set forth in this subsection is to impress upon the parents, guardians, or persons in loco parentis the importance of school or adult education attendance, and the penalty is not to be used primarily as a source of revenue.

(B)(i) When assessing penalties, the court shall be aware of any available programs designed to improve the parent-child relationship or parenting skills.

(ii) When practicable and appropriate, the court may utilize mandatory attendance at the programs as well as community service requirements in lieu of monetary penalties.

(8) As used in this section, "prosecuting authority" means:

(A) The elected district prosecuting attorney or his or her appointed deputy for schools located in unincorporated areas of the county or within cities not having a police or district court; and

(B) The prosecuting attorney of the city for schools located within the city limits of cities having either a police court or a district court in which a city prosecutor represents the city for violations of city ordinances or traffic violations.

(9) In any instance in which it is found that the school district, the adult education program, or the prosecuting authority is not complying with the provisions of this section, the State Board of Education may petition the circuit court to issue a writ of mandamus.

(b)(1)(A) Each public, private, or parochial school shall notify the Department of Finance and Administration whenever a student fourteen (14) years of age or older is no longer in school.

(B) Each adult education program shall notify the department whenever a student sixteen (16) or seventeen (17) years of age has left the program without receiving a high school equivalency certificate.

(2)(A) Upon receipt of notification, the department shall notify the licensee by certified mail, return receipt requested, that his or her motor vehicle operator's license will be suspended unless a hearing is requested in writing within thirty (30) days from the date of notice.

(B) The licensee shall be entitled to retain or regain his or her license by providing the department with adequate evidence that:

(i) The licensee is eighteen (18) years of age;

(ii) The licensee is attending school or an adult education program;

or

(iii) The licensee has obtained a high school diploma or its equivalent.

(C)(i) In cases in which demonstrable financial hardship would result from the suspension of the learner's permit or driver's license, the department may grant exceptions only to the extent necessary to ameliorate the hardship.

(ii) If it can be demonstrated that the conditions for granting a hardship were fraudulent, the parent, guardian, or person in loco parentis shall be subject to all applicable perjury statutes.

(3) The department shall have the power to promulgate rules and regulations to carry out the intent of this section and shall distribute to each public, private, and parochial school and each adult education program a copy of all rules and regulations adopted under this section.

History. Acts 1989, No. 473, §§ 1, 2; 1989 (3rd Ex. Sess.), No. 70, §§ 1-5; 1991, No. 876, § 1; 1992 (1st Ex. Sess.), No. 42, § 1; 1994 (2nd Ex. Sess.), No. 30, § 2; 1994 (2nd Ex. Sess.), No. 31, § 2; 1995, No. 572, § 1; 1995, No. 837, § 3; 1995, No. 1296, § 23; 1997, No. 1308, § 1; 1999, No. 1323, § 20; 1999, No. 1579, § 2[3]; 2003, No. 1166, § 38; 2011, No. 1223, § 4; 2013, No. 1322, §§ 4, 7-10.

Amendments. The 2011 amendment substituted "State Board of Career Education" for "State Board of Workforce Education and Career Opportunities" in (a)(2); substituted "State Board of Career Education's" for "board's" in (a)(3), (a)(4)(A)(i), and (a)(5)(A); inserted "if the community truancy board has been created" with mi-

nor variations in (a)(4)(A)(i), (a)(4)(A)(iii), (a)(4)(B), and (a)(5)(A); in (a)(4)(C), inserted "the community truancy board has scheduled a conference and" and substituted "student's absences" for "child's absence"; inserted (a)(4)(D); and, in (a)(5)(A), substituted "excessive absences" for "excessive unexcused absences" and inserted "or when a student has violated the conditions of an agreement granting special arrangements under subdivision (a)(4)(D) of this section."

The 2013 amendment substituted "unexcused" for "excessive" in the section heading and throughout the section; and inserted "unexcused" preceding "absences" in (a)(4)(D)(i).

6-18-227. Arkansas Opportunity Public School Choice Act of 2004.

(a)(1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act of 2004".

(2)(A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a public school or school district classified by the State Board of Education as a school or school district in academic distress under § 6-15-428; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school or school district not in academic distress.

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public

school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a public school or school district classified by the state board as a public school or school district in academic distress to another public school or school district in the state that is not in academic distress, subject to the restrictions contained in this section.

(b)(1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school under this section if:

(A) The resident public school or school district has been classified by the state board as a public school or school district in academic distress; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a transfer no later than July 30 of the first year in which the student intends to transfer.

(2)(A)(i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, timely makes application under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii) A transfer under this section is effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3)(A) For each student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available under this section; and

(ii)(a) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been classified by

the state board as a public school or school district in academic distress.

(b) The opportunity to continue attending the public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

(B)(i) The parent or guardian of a student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress may choose as an alternative to enroll the student in a legally allowable public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding under applicable state law.

(C)(i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, and who participate in this program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for the student shall be transferred to the public school or school district to which the student transfers.

(c)(1)(A) The receiving public school or school district may transport students to and from the transferring public school or school district, and the cost of transporting students shall be the responsibility of the transferring public school or school district except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district shall not be required to spend more than four hundred dollars (\$400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school's or school district's removal from classification as a public school or school district in academic distress, the transportation costs shall no longer be the responsibility of the transferring public school or school district, and the student's transportation and the costs of the transportation shall be the responsibility of the parent or guardian or of the receiving public school or school district if the receiving public school or school district agrees to bear the transportation costs.

(d)(1)(A) Each district school board of directors shall offer the opportunity public school choice option within the public schools.

(B) The opportunity public school choice option shall be offered in addition to other existing choice programs.

(2)(A)(i) A school district shall not deny a student the ability to attend a school in the student's school district of choice under this section unless there is a lack of capacity at the school in the student's school district of choice.

(ii) A lack of capacity may be claimed by a school district only if the school district has reached the maximum student-to-teacher ratio allowed under federal law, state law, the rules for standards of accreditation, or other applicable regulations.

(B) The race or ethnicity of a student shall not be used to deny a student the ability to attend a school in the student's school district of choice under this section.

(3) A student or the student's parent or guardian may appeal a school district's decision to deny admission to a school in a student's school district of choice due to lack of capacity to the State Board of Education after the student or the student's parent or guardian receives a written notice from the school district of choice that admission has been denied.

(4) The department shall promulgate rules governing the use of school capacity as a basis for denying admission under this section.

(e)(1) The provisions of this section and all student choice options created in this section shall comply with § 6-18-206(d), (e), and (i) and shall not be subject to any other limitation or restriction provided by law.

(2) If any part of this section conflicts with the provisions of a federal desegregation court order applicable to a school district, the provisions of the federal desegregation court order shall govern.

(f) The department shall develop an annual report on the status of school choice and deliver the report to the state board, the Governor, and the Legislative Council at least ninety (90) days prior to the convening of the regular session of the General Assembly.

(g) Each district school board of directors shall annually report the number of students applying for and attending the various types of public schools of choice in the district, including schools such as magnet schools, according to rules adopted by the state board.

(h)(1) A receiving district shall accept credits toward graduation that were awarded by another district.

(2) The receiving district shall award a diploma to a nonresident student if the student meets the receiving district's graduation requirements.

(i) For purposes of determining a school district's state funding, the nonresident student shall be counted as a part of the average daily membership of the district to which the student has transferred.

(j)(1) All school districts shall report to the department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.

(2) The reports may be on those forms that are prescribed by the department, or the data may be submitted electronically by the district using a format authorized by the department.

(3) The department may put on probation the superintendent of any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the department so long as thirty (30) calendar days are given between the request for the information and the published deadline.

(4) A copy of the report shall be provided to the interim House Committee on Education and the interim Senate Committee on Education.

(k)(1) Unless excused by the school for illness or other good cause:

(A) Any student participating in the opportunity public school choice option shall remain in attendance throughout the school year and shall comply fully with the school's code of conduct; and

(B) The parent or guardian of each student participating in the opportunity public school choice option shall comply fully with the receiving public school's parental involvement requirements.

(2) A participant who fails to comply with this section shall forfeit the opportunity public school choice option.

(l)(1) The maximum opportunity public school choice funds granted for an eligible student shall be calculated based on applicable state law.

(2) The receiving school district shall report all students who transfer from another public school under this program. The students attending public schools pursuant to the opportunity public school choice option shall be reported separately from those students reported for purposes of compliance with applicable state law.

(3) The public school that provides services to students with disabilities shall receive funding as determined by applicable federal and state law.

(m) The state board shall adopt any rules necessary for the implementation of this section pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(n) A district under this program shall request public service announcements to be made over the broadcast media and in the print media at such times and in such a manner as to inform parents or guardians of students in adjoining districts of the availability of the program, the application deadline, and the requirements and procedure for nonresident students to participate in the program.

History. Acts 2003 (2nd Ex. Sess.), No. 35, § 7; 2005, No. 2121, § 22; 2011, No. 1124, §§ 1, 2; 2011, No. 1147, § 1; 2013, No. 600, §§ 7-12; 2013, No. 1138, § 45; 2013, No. 1227, § 4; 2013, No. 1429, § 11.

A.C.R.C. Notes. Pursuant to § 1-2-207, subdivision (e)(1) is set out above as amended by Acts 2011, No. 1147, § 1. Subdivision (e)(1) was also amended by Acts 2011, No. 1124, § 1, to read as follows: "(e)(1) The provisions of this section and all student choice options created in this section are subject only to the limitations of § 6-18-206(d)-(e), (g), and (i)."

Amendments. The 2011 amendment by No. 1124, in present (e)(1), inserted "only" and substituted "§ 6-18-206(e)-(e), (g), and (i)" for "6-18-206(d)-(f)"; added (e)(2); and deleted former (k)(2) and reded-

ignated the remaining subdivision accordingly.

The 2011 amendment by No. 1147 rewrote (c)(1); substituted "responsibility of the transferring district" for "responsibility of the state" in (c)(2); rewrote (d)(2); inserted (d)(3) and (d)(4); added (e)(2) and redesignated the existing language of (e) as (e)(1); and substituted "shall comply with § 6-18-206(d), (e), and (i) and shall not be subject to any other limitation or restriction provided by law" for "are subject to the limitations of § 6-18-206(d)-(f)" in (e)(1).

The 2013 amendment by No. 600 rewrote (a), (b) and (c)(2); and substituted "funding" for "equalization aid" in (i).

The 2013 amendment by No. 1138, in (j)(4), substituted "interim House Committee" for "Joint Interim Committee" and

added “and the interim Senate Committee on Education” at the end.

The 2013 amendment by No. 1227 substituted “provided for by § 6-18-202, § 6-18-316, or by June 1 under the Public

School Choice Act of 2013, § 6-18-1901 et seq” for “provided for by §§ 6-18-202, 6-18-206, and 6-18-316” in (b)(2)(A)(i).

The 2013 amendment by No. 1429 rewrote (a) through (c).

6-18-230. Minimum age for enrolling in prekindergarten.

(a)(1) A child may enter a prekindergarten program for children three (3) years of age if the child will attain three (3) years of age on or before August 1 immediately preceding the beginning of the school year.

(2) A child may enter a prekindergarten program for children four (4) years of age if the child will attain four (4) years of age on or before August 1 immediately preceding the beginning of the school year.

(b)(1) The Division of Child Care and Early Childhood Education of the Department of Human Services shall notify all providers of appropriate early childhood programs for prekindergarten of the age requirements specified in subsection (a) of this section by providing one (1) written notification letter sent to each provider of appropriate early childhood programs for prekindergarten at the address of record on file with the Department of Human Services.

(2) The prekindergarten age requirements specified in subsection (a) of this section shall be published on the website of the:

(A) Department of Human Services; and

(B) Department of Education.

History. Acts 2009, No. 426, § 1; 2013, No. 1138, § 46.

A.C.R.C. Notes. Acts 2009, No. 426, § 2, provided: “For the 2009-2010 school year, the division shall notify all providers of appropriate early childhood programs for prekindergarten of the new age re-

quirements no later than fourteen (14) days after enactment.”

Amendments. The 2013 amendment deleted former (a)(1) and (a)(2); and redesignated former (a)(2)(A) and (a)(2)(B) as present (a)(1) and (a)(2).

6-18-231. Additional absences for Arkansas National Guard members.

A student who joins the Arkansas National Guard at seventeen (17) years of age while in grade eleven (11) shall be granted additional absences at the discretion of the school district superintendent in order to complete basic combat training between grades eleven (11) and twelve (12).

History. Acts 2013, No. 1289, § 1.

SUBCHAPTER 4 — ARKANSAS AMERICAN COLLEGE TEST ASSESSMENT ASSISTANCE PILOT PROGRAM

SECTION.

6-18-401 — 6-18-408. [Repealed.]

6-18-401 — 6-18-408. [Repealed.]

Publisher's Notes. This subchapter was repealed by Acts 2011, No. 989, § 61. The subchapter was derived from the following sources:

6-18-401. Acts 1999, No. 1226, § 1.
 6-18-402. Acts 1999, No. 1226, § 2;
 2001, No. 1093, § 1.

6-18-403. Acts 1999, No. 1226, § 3.
 6-18-404. Acts 1999, No. 1226, § 4;
 2001, No. 1093, § 2.
 6-18-405. Acts 1999, No. 1226, § 5.
 6-18-406. Acts 1999, No. 1226, § 8.
 6-18-407. Acts 1999, No. 1226, § 6.
 6-18-408. Acts 1999, No. 1226, § 7.

SUBCHAPTER 5 — DISCIPLINE**SECTION.**

6-18-502. Guidelines for development of school district student discipline policies.
 6-18-503. Written student discipline policies required.
 6-18-505. School Discipline Act.
 6-18-507. Suspension — Expulsion.

SECTION.

6-18-508, 6-18-509. [Repealed.]
 6-18-513. Parental notification.
 6-18-514. Antibullying policies.
 6-18-515. Use of personal electronic devices.
 6-18-516. Effective school discipline.

Effective Dates. Acts 2011, No. 1118, § 5: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state's public school children receive an equal opportunity for an adequate education; that to ensure that opportunity, it is essential that the state's public schools and education service cooperatives operate effective alternative learning environments; that the immediate effectiveness of this bill is necessary for the implementation of the funding changes and for the public

schools and education service cooperatives to operate effective alternative learning environments under this bill throughout the state by the 2011-2012 school year; and that any delay in the effective date of this act could work irreparable harm to the quality of education available to students who are educated in alternative learning environments in this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

6-18-502. Guidelines for development of school district student discipline policies.

(a) The Department of Education shall establish guidelines for the development of school district student discipline policies.

(b) Such guidelines shall include, but not be limited to, the following requirements:

(1) Parents, students, and school district personnel, including teachers, shall be involved in the development of school district student discipline policies;

(2)(A) The student discipline policies shall be reviewed annually by the school district's committee on personnel policies.

(B) The committee may recommend changes in the policies to the board of directors of the local school district; and

(3) Student discipline policies shall include, but not be limited to, the following offenses:

(A) Willfully and intentionally assaulting or threatening to assault or abuse any student or teacher, principal, superintendent, or other employee of a school system;

(B) Possession by students of any firearm or other weapon prohibited upon the school campus by law or by policies adopted by the school board of directors;

(C) Using, offering for sale, or selling beer, alcoholic beverages, or other illicit drugs by students on school property; and

(D) Willfully or intentionally damaging, destroying, or stealing school property by students.

(c) The school discipline policies shall:

(1) Prescribe minimum and maximum penalties, including students' suspension or dismissal from school, for violations of each of the aforementioned offenses and for violations of other practices prohibited by school discipline policies;

(2)(A) Prescribe expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law.

(B) Provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis;

(3) Establish procedures for notice to students and parents of charges, hearings, and other due process proceedings to be applicable in the enforcement and administration of such policies by the school administrator and by the school board of directors;

(4) Include prevention, intervention, and conflict resolution provisions; and

(5) Set forth the role and authority of public school employees and volunteers as provided in this subchapter.

(d) Student discipline policies shall provide that parents and students will be advised of the rules and regulations by which the school is governed and will be made aware of the behavior that will call for disciplinary action and the types of corrective actions that may be imposed.

(e) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and for documentation of the receipt of the policies by all parents and students.

(f) Teachers and administrators, classified school employees, and volunteers shall be provided with appropriate student discipline training.

(g) If a school employee believes that any action taken by the school district to discipline a student referred by that employee does not follow school district discipline policies, the school employee may appeal under the district's grievance procedure as provided under § 6-17-208.

(h) In developing the state guidelines for school district discipline policies, the department shall involve parents, students, teachers, and administrators.

History. Acts 1983 (Ex. Sess.), No. 77, § 1; 1983 (Ex. Sess.), No. 104, § 1; A.S.A. 1947, § 80-1629.6; Acts 1989, No. 146, § 1; 1995, No. 567, § 1; 1995, No. 968, § 1; 1997, No. 706, § 1; 1999, No. 1475, §§ 2, 3; 2001, No. 447, § 1; 2013, No. 71, § 1.

Amendments. The 2013 amendment deleted former (b)(3)(D), and redesignated (b)(3)(E) as present (b)(3)(D).

RESEARCH REFERENCES

ALR. Propriety of School Policies, and Measures Taken Pursuant to School Policies, Prohibiting the Possession, Display,

or Use of Cell Phones in School. 70 A.L.R.6th 145.

CASE NOTES

Education.

Trial court properly granted summary judgment to a teacher and principal in a student's suit alleging conversion, trespass to chattels, and due process violations, arising from the teacher's alleged

wrongful taking of the student's cell phone. This section authorized penalties for misconduct other than those specifically listed. *Koch v. Adams*, 2010 Ark. 131, 361 S.W.3d 817 (2010).

6-18-503. Written student discipline policies required.

(a)(1)(A) Each school district in this state shall develop written student discipline policies in compliance with the guidelines established by the Department of Education and shall file such policies with the department.

(B) Guidelines shall include minimum standards of quality, experimentation with innovative programs, and a system to judge the effectiveness of the program.

(C) The discipline policy shall include provisions for:

(i) Placement of a student with disciplinary, socially dysfunctional, or behavioral problems not associated with a handicapping condition in an alternative learning environment provided by the district; and

(ii) Expulsion from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law; provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) Behavioral problems shall include those at risk of not satisfactorily completing a high school education.

(b)(1) A school district that authorizes use of corporal punishment in its discipline policy shall include provisions for administration of the punishment, including that it be administered only for cause, be reasonable, follow warnings that the misbehavior will not be tolerated, and be administered by a teacher or a school administrator and only in the presence of a school administrator or his or her designee, who shall be a teacher or an administrator employed by the school district.

(2) As used in this section, “teachers and administrators” means those persons employed by a school district and required to have a state-issued educator license as a condition of their employment.

(c)(1) A school district shall include in its student discipline policies a provision prohibiting students from wearing, while on the grounds of a public school during the regular school day and at school-sponsored activities and events, clothing that exposes underwear, buttocks, or the breast of a female.

(2) Subdivision (c)(1) of this section shall not apply to a costume or uniform worn by a student while participating in a school-sponsored activity or event.

(3) A school district shall specify in its student discipline policies the disciplinary actions that will be taken against a student for a violation of subdivision (c)(1) of this section.

(4) Subdivision (c)(1) of this section shall not be enforced in a manner that discriminates against a student on the basis of his or her race, color, religion, sex, disability, or national origin.

(d) Any amendments or revisions to a school district’s student discipline policies shall be developed and adopted in the same manner as the original policies required by § 6-18-502 and shall be consistent with the guidelines established by the department.

(e) Any amendment or revision to the student discipline policies adopted by a school district shall be submitted to the department within thirty (30) days after the adoption of such amendment or revision.

History. Acts 1983 (Ex. Sess.), No. 77, § 2; 1983 (Ex. Sess.), No. 104, § 2; A.S.A. 1947, § 80-1629.7; Acts 1991, No. 830, § 1; 1994 (2nd Ex. Sess.), No. 51, §§ 2, 5; 1995, No. 333, § 1; 1995, No. 567, § 2; 2011, No. 835, § 2; 2013, No. 1073, § 29; 2013, No. 1138, § 47.

A.C.R.C. Notes. Acts 2011, No. 835, § 1, provided: “Legislative intent.

“(a) The General Assembly finds that the wearing of clothing that exposes underwear, buttocks, or the breast of a female by students in the public schools often preoccupies and distracts students from their major purpose for being in school, that of becoming educated in math, science, English, history, and other subjects.

“(b) The General Assembly further finds that student competition over the manner in which clothing is worn could lead to violence and injuries during school hours.

“(c) The General Assembly further finds that, as part of their preparation for students to enter the workforce, public schools should encourage and train students to dress in a manner that would be acceptable in the workplace.

“(d) The General Assembly finds that prohibiting students from wearing, while on the grounds of a public school during the regular school day and at school-sponsored activities and events, clothing that exposes underwear, buttocks, or the breast of a female will prevent disruptions in the learning environment, advance the education of students, enhance the preparation of students to enter the workforce, and make disruptive incidents of violence less likely to occur.”

Amendments. The 2011 amendment added (c) and redesignated the remaining subsections accordingly.

The 2013 amendment by Nos. 1073 and 1138 substituted “educator license” for “certificate” in (b)(2).

6-18-505. School Discipline Act.

(a) This section may be cited as the “School Discipline Act”.

(b) Every teacher is authorized to hold every pupil strictly accountable for any disorderly conduct in school or on the playground of the school, or on any school bus going to or returning from school, or during intermission or recess.

(c)(1) Any teacher or school administrator in a school district that authorizes use of corporal punishment in the district’s written student discipline policy may use corporal punishment, provided only that the punishment is administered in accord with the district’s written student discipline policy, against any pupil in order to maintain discipline and order within the public schools.

(2) As used in subdivision (c)(1) of this section, “teachers and administrators” means those persons employed by a school district and required to have a state-issued educator license as a condition of their employment.

History. Acts 1977, No. 904, §§ 1, 2; A.S.A. 1947, §§ 80-1629.1, 80-1629.2; Acts 1994 (2nd Ex. Sess.), No. 51, §§ 1, 5; 2013, No. 1073, § 30; 2013, No. 1138, § 48.

Amendments. The 2013 amendment by Nos. 1073 and 1138 substituted “educator license” for “certificate” in (c)(2).

6-18-507. Suspension — Expulsion.

(a) As used in this section:

(1) “Course time” means the number of hours of instruction devoted to a single subject during the school week;

(2) “Expulsion” means dismissal from school for a period of time that exceeds ten (10) days;

(3) “Nontraditional scheduling” means block or other alternative scheduling as defined by the Department of Education; and

(4) “Suspension” means dismissal from school for a period of time that does not exceed ten (10) days.

(b) The board of directors of a school district may suspend or expel any student from school for violation of the school district’s written discipline policies, except that a school district shall not use out-of-school suspension as a discipline measure for truancy.

(c)(1) The board of directors may authorize a teacher or an administrator to suspend any student for a maximum of ten (10) school days for violation of the school district’s written discipline policies, subject to appeal to the superintendent or his or her designee; however, schools that utilize nontraditional scheduling may not suspend students from more course time than would result from a ten-day suspension under the last traditional schedule used by the school district.

(2) If the superintendent initiates the suspension process, the decision may be appealed to the board of directors.

(d)(1) A superintendent may recommend the expulsion of a student for more than ten (10) days for violation of the school district’s written

discipline policies, subject to appeal to the board of directors and to requirements of the federal Individuals with Disabilities Education Act.

(2)(A) After hearing all testimony and debate on a suspension, expulsion, or appeal, the board of directors may consider its decision in executive session without the presence of anyone other than the board members.

(B) At the conclusion of an executive session, the board of directors shall reconvene in public session to vote on the suspension, expulsion, or appeal.

(3) A school district board of directors meeting entertaining an appeal shall be conducted in executive session if requested by the parent or guardian of the student provided that after hearing all testimony and debate, the board of directors shall conclude the executive session and reconvene in public session to vote on such appeal.

(e)(1) The superintendent of any school district shall recommend the expulsion of any student from school for a period of not less than one (1) year for possession of any firearm or other weapon prohibited upon the school campus by law; provided, however, that the superintendent shall have discretion to modify such expulsion requirement for a student on a case-by-case basis.

(2) All school districts shall adopt a written policy regarding expulsion of a student for possessing a firearm or other prohibited weapon on school property that shall require parents, guardians, or other persons in loco parentis of a student expelled under this subsection to sign a statement acknowledging that the parents have read and understand current laws regarding the possibility of parental responsibility for allowing a child to possess a weapon on school property. The statement shall be signed by the parents, guardians, or other persons in loco parentis prior to readmitting a student or enrolling a student in any public school immediately after the expiration of an expulsion period pursuant to this subsection.

(3)(A) The school administrators and the local school board of directors shall complete the expulsion process of any student that was initiated because the student possessed a firearm or other prohibited weapon on school property regardless of the enrollment status of the student.

(B) The principal of each school shall report within a week to the department the name, current address, and social security number of any student who is expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(C) The expulsion shall be noted on the student's permanent school record.

(D) Nothing in this subdivision (e)(3) shall be construed to limit a superintendent's discretion to modify the expulsion requirement for a student on a case-by-case basis as set out in this subsection.

(4)(A) The department shall establish and maintain a registry of students who are expelled for possessing a firearm or other prohibited weapon on school property or for committing other acts of violence.

(B) The names, addresses, and social security numbers of all students listed in the registry shall be available by phone, facsimile, or mail to any school principal in the state.

(f)(1) Upon suspension of a student, the school shall immediately contact the student's parent or legal guardian to notify the parent or legal guardian of the suspension.

(2) Each parent or legal guardian shall provide the school:

(A)(i) A primary call number.

(ii) If the call number changes, the parent or legal guardian shall notify the school of the new primary call number;

(B) An email address if the parent or guardian does not have a telephone; or

(C) A current mailing address if the parent or guardian does not have a telephone or email address.

(3) The contact required in subsection (f) of this section is sufficient if made by:

(A) Direct contact with the parent or legal guardian at the primary call number or in person;

(B) Leaving a voice mail at the primary call number;

(C) Sending a text message to the primary call number;

(D) Email if the school is unable to make contact through the primary call number; or

(E) Regular first-class mail if the school is unable to make contact through the primary call number or email.

(4) The school shall keep a notification log of contacts attempted and made to the parent or legal guardian.

(g) A public school shall indicate on a student's attendance record if a student's absence is the result of an out-of-school suspension.

History. Acts 1931, No. 169, § 170; Pope's Dig., § 11612; Acts 1979, No. 441, § 1; A.S.A. 1947, § 80-1516; Acts 1995, No. 567, § 3; 1997, No. 742, § 1; 1999, No. 1150, § 1; 2007, No. 159, § 1; 2009, No. 1445, § 1; 2013, No. 1329, §§ 2, 3.

A.C.R.C. Notes. Acts 2013, No. 1329, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds that:

"(1) There are many factors that contribute to poor student performance including lost instruction time or chronic absence;

"(2) A student who has been suspended even once is less likely to graduate;

"(3) Discipline that keeps students engaged in the learning process and in the school community is more effective than discipline that interrupts the learning process and separates the student from the school community;

"(4) Out-of-school suspensions are necessary in some situations but the excessive use of out-of-school suspension as a discipline measure is harmful to the educational process; and

"(5) Disparity in discipline rates does not necessarily indicate discrimination; it can result from an ineffective school climate or from cultural strategies that are not successful in engaging the academic efforts of all students."

Amendments. The 2009 amendment inserted (d)(2)(A), redesignated the subsequent subdivision accordingly, and made a minor stylistic change.

The 2013 amendment added "except that a school district shall not use out-of-school suspension as a discipline measure for truancy" to the end of (b); and added (g).

6-18-508, 6-18-509. [Repealed.]

Publisher's Notes. These sections, concerning alternative learning environment and assessment and intervention in alternative learning environments, were repealed by Acts 2011, No. 1118, § 2. They were derived from the following sources:

6-18-508. Acts 1991, No. 830, § 2; 1995,

No. 597, § 1; 1995, No. 1296, § 24; 1997, No. 112, § 11; 1999, No. 391, § 12; 1999, No. 1299, § 1; 2005, No. 2121, § 9; 2007, No. 617, § 13.

6-18-509. Acts 1993, No. 1287, § 1; 1995, No. 597, § 2; 1999, No. 1299, § 2; 2005, No. 2121, § 10.

6-18-513. Parental notification.

(a) A school or school district shall comply with subsection (b) of this section if the school or school district with respect to a student under the age of eighteen (18):

(1) Makes a report to any law enforcement agency concerning student misconduct;

(2) Grants law enforcement personnel other than a school resource officer acting in the normal course and scope of his or her assigned duties access to a student; or

(3) Knows that a student has been taken into custody by law enforcement personnel during the school day or while under school supervision.

(b)(1) The principal or, in the principal's absence, the principal's designee shall make a reasonable, good faith effort to notify the student's parent, legal guardian, or other person having lawful control of the student by court order or person acting in loco parentis listed on student enrollment forms of the occurrence of any of the events in subsection (a) of this section.

(2) The principal or the principal's designee shall notify the student's parent, legal guardian, or other person having lawful control of the student under an order of court or person acting in loco parentis that the student has been reported to, interviewed by, or taken into custody by law enforcement personnel.

(3) If the principal or the principal's designee is unable to reach the parent, he or she shall make a reasonable, good faith effort to get a message to the parent to call either the principal or the principal's designee and leave both a day and an after-hours telephone number.

(c) Notification required by subsection (b) of this section is not required if school personnel make a report or file a complaint based on suspected child maltreatment as required under § 12-18-401 et seq. or if a law enforcement officer, investigator of the Crimes Against Children Division of the Department of Arkansas State Police, or Department of Human Services investigator or personnel member interviews a student during the course of an investigation of suspected child maltreatment.

(d)(1) The principal or the principal's designee shall not provide notification under subsection (b) of this section if a request is made to interview a student during the course of an investigation of suspected child maltreatment and a parent, guardian, custodian, or person standing in loco parentis is named as an alleged offender.

(2) The investigator shall provide the school with documentation that notification to the parent, guardian, custodian, or person standing in loco parentis is prohibited.

(e) Subsection (d) of this section shall only apply to interview requests made by:

- (1) A law enforcement officer;
- (2) An investigator of the Crimes Against Children Division of the Department of Arkansas State Police; or
- (3) An investigator or employee of the Department of Human Services.

History. Acts 2001, No. 1217, § 1; 2005, No. 1415, § 1; 2009, No. 758, § 6; 2011, No. 613, § 1; 2011, No. 981, § 8.

A.C.R.C. Notes. The contingency in Acts 2009, No. 758, § 29, was met by Acts 2009, No. 749.

Amendments. The 2009 amendment substituted “Subchapter 4 of the Child Maltreatment Act, § 12-18-101 et seq.” for “§ 12-12-507” in (c).

The 2011 amendment by No. 613 added (d) and (e).

The 2011 amendment by No. 981 substituted “§ 12-18-401” for “Subchapter 4 of

the Child Maltreatment Act, § 12-18-101” in (c).

Effective Dates. Acts 2009, No. 758, § 29, provided: “Contingent Effectiveness. This act shall not become effective unless an act of the Eighty-Seventh General Assembly repealing the Arkansas Child Maltreatment Act, § 12-12-501 et seq., and enacting a new Child Maltreatment Act, § 12-18-101 et seq., becomes effective.”

6-18-514. Antibullying policies.

(a) The General Assembly finds that every public school student in this state has the right to receive his or her public education in a public school educational environment that is reasonably free from substantial intimidation, harassment, or harm or threat of harm by another student.

(b) As used in this section:

(1) “Attribute” means an actual or perceived personal characteristic including without limitation race, color, religion, ancestry, national origin, socioeconomic status, academic status, disability, gender, gender identity, physical appearance, health condition, or sexual orientation;

(2) “Bullying” means the intentional harassment, intimidation, humiliation, ridicule, defamation, or threat or incitement of violence by a student against another student or public school employee by a written, verbal, electronic, or physical act that may address an attribute of the other student, public school employee, or person with whom the other student or public school employee is associated and that causes or creates actual or reasonably foreseeable:

(A) Physical harm to a public school employee or student or damage to the public school employee’s or student’s property;

(B) Substantial interference with a student’s education or with a public school employee’s role in education;

(C) A hostile educational environment for one (1) or more students or public school employees due to the severity, persistence, or pervasiveness of the act; or

(D) Substantial disruption of the orderly operation of the school or educational environment;

(3) "Electronic act" means without limitation a communication or image transmitted by means of an electronic device, including without limitation a telephone, wireless phone or other wireless communications device, computer, or pager;

(4) "Harassment" means a pattern of unwelcome verbal or physical conduct relating to another person's constitutionally or statutorily protected status that causes, or reasonably should be expected to cause, substantial interference with the other's performance in the school environment; and

(5) "Substantial disruption" means without limitation that any one (1) or more of the following occur as a result of the bullying:

(A) Necessary cessation of instruction or educational activities;

(B) Inability of students or educational staff to focus on learning or function as an educational unit because of a hostile environment;

(C) Severe or repetitive disciplinary measures are needed in the classroom or during educational activities; or

(D) Exhibition of other behaviors by students or educational staff that substantially interfere with the learning environment.

(c) Bullying of a public school student or a public school employee is prohibited.

(d) A school principal or his or her designee who receives a credible report or complaint of bullying shall promptly investigate the complaint or report and make a record of the investigation and any action taken as a result of the investigation.

(e)(1) The board of directors of every school district shall adopt policies to prevent bullying.

(2) The policies shall:

(A)(i) Clearly define conduct that constitutes bullying.

(ii) The definition shall include without limitation the definition contained in subsection (b) of this section;

(B) Prohibit bullying:

(i) While in school, on school equipment or property, in school vehicles, on school buses, at designated school bus stops, at school-sponsored activities, at school-sanctioned events; or

(ii)(a) By an electronic act that results in the substantial disruption of the orderly operation of the school or educational environment.

(b) This section shall apply to an electronic act whether or not the electronic act originated on school property or with school equipment, if the electronic act is directed specifically at students or school personnel and maliciously intended for the purpose of disrupting school and has a high likelihood of succeeding in that purpose;

(C) State the consequences for engaging in the prohibited conduct, which may vary depending on the age or grade of the student involved;

(D) Require that a school employee who has witnessed or has reliable information that a pupil has been a victim of bullying as defined by the district shall report the incident to the principal;

(E) Require that the person or persons who file a complaint will not be subject to retaliation or reprisal in any form;

(F) Require that notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be conspicuously posted in every classroom, cafeteria, restroom, gymnasium, auditorium, and school bus in the district; and

(G) Require that copies of the notice of what constitutes bullying, that bullying is prohibited, and that the consequences of engaging in bullying be provided to parents, students, school volunteers, and employees. Each policy shall require that a full copy of the policy be made available upon request.

(f) A school district shall provide training on compliance with the antibullying policies to all public school district employees responsible for reporting or investigating bullying under this section.

(g) A school employee who has reported violations under the school district's policy shall be immune from any tort liability that may arise from the failure to remedy the reported incident.

(h) The board of directors of a school district may provide opportunities for school employees to participate in programs or other activities designed to develop the knowledge and skills to prevent and respond to acts covered by this policy.

(i) The school district shall provide the Department of Education with the website address at which a copy of the policies adopted in compliance with this section may be found.

(j) This section is not intended to:

(1) Restrict a public school district from adopting and implementing policies against bullying or school violence or policies to promote civility and student dignity that are more inclusive than the antibullying policies required under this section; or

(2) Unconstitutionally restrict protected rights of freedom of speech, freedom of religious exercise, or freedom of assembly.

History. Acts 2003, No. 681, § 1; 2005, No. 1437, § 1; 2007, No. 115, § 1; 2011, No. 907, § 1; 2013, No. 1073, § 31.

Amendments. The 2011 amendment deleted former (a)(2), inserted present (b)(1), (c), (d), (e)(1), (f), and (j), and redesignated the remaining subsections accordingly; substituted "this section" for "this

subchapter" in the introductory language of present (b); and substituted "may address an attribute ... actual or reasonably foreseeable" for "causes or creates a clear and present danger of" at the end of present (b)(2).

The 2013 amendment rewrote (i).

CASE NOTES

Construction.

Federal district court dismissed parents' claim seeking damages from a school district and a vice principal under this

section, based on allegations that the district and the vice principal failed to protect their son from attacks by other children. Although this section guaranteed

public school students the right to receive their education in an environment that was reasonably free from substantial intimidation, harassment, or harm or threat

of harm by other students, it did not create a private right of action. *Wolfe v. Fayetteville Ark. Sch. Dist.*, 600 F. Supp. 2d 1011 (W.D. Ark. 2009).

6-18-515. Use of personal electronic devices.

(a) As used in this section, “personal electronic device” means without limitation a:

- (1) Cellular telephone;
- (2) Paging device;
- (3) Beeper;
- (4) Mobile telephone that offers advanced computing and Internet accessibility;
- (5) Digital media player;
- (6) Portable game console;
- (7) Tablet, notebook, or laptop computer;
- (8) Digital camera; and
- (9) Digital video or audio recorder.

(b) A school district may establish a written student discipline policy and exemptions concerning the possession and use by a student of a personal electronic device:

- (1) On school property;
 - (2) At an after-school activity; or
 - (3) At a school-related function.
- (c) The policy may, without limitation:
- (1) Allow or restrict the possession and use of a personal electronic device;
 - (2) Allow the use of a personal electronic device in school for instructional purposes at the discretion of a teacher or administrator;
 - (3) Limit the times or locations in which a personal electronic device may be used to make telephone calls, send text messages or emails, or engage in other forms of communication;
 - (4) Allow or prohibit the use of any photographic, audio, or video recording capabilities of a personal electronic device while in school;
 - (5) Exempt the possession or use of a personal electronic device by a student who is required to use such a device for health or another compelling reason;
 - (6) Exempt the possession or use of a personal electronic device after normal school hours for extracurricular activities; and
 - (7) Include other relevant provisions deemed appropriate and necessary by the school district.

History. Acts 2013, No. 71, § 2.

6-18-516. Effective school discipline.

(a) As used in this section:

- (1) “Disciplinary rate” means a three-year average for each discipline measure of the number of students in a school district or the number of

students in a subgroup in the school district who have at least one (1) discipline measure divided by the corresponding total enrollment in the school district or the total enrollment in the subgroup;

(2) "Discipline measure" means:

- (A) In-school suspension;
- (B) Out-of-school suspension;
- (C) Expulsion;
- (D) Corporal punishment; and
- (E) Referrals to law enforcement authorities;

(3) "Rate of disciplinary disparity" means the disciplinary rate for a subgroup subtracted from the disciplinary rate for another comparison subgroup; and

(4) "Subgroup" means the enrollment of students in one (1) of the following demographic groups:

- (A) White students;
- (B) Nonwhite students;
- (C) Low-income students, including without limitation students who are economically disadvantaged for standardized testing purposes;
- (D) Students with disabilities, defined as "a child with a disability" under § 6-41-203; and
- (E) Students whose achievement is at the basic or below basic level, or the equivalent, for the school year on the state-required:
 - (i) Literacy benchmark assessments;
 - (ii) Mathematics benchmark assessments; or
 - (iii) End-of-course assessments.

(b) By July 1 of each year beginning in 2014, the Department of Education shall prepare and provide a report to the State Board of Education and to all school districts that includes the following information:

(1) The total number of students enrolled in the school district and in each subgroup;

(2) The percentage that each subgroup represents of the school district's total enrollment;

(3) The number of students who appear in more than one (1) subgroup;

(4) The disciplinary rate for each discipline measure for the total student enrollment in a school district;

(5) The disciplinary rate for each discipline measure for each subgroup; and

(6) The rate of disciplinary disparity for each discipline measure for each subgroup compared with the subgroup with the lowest disciplinary rate.

(c) The report also:

(1) May include additional information that the department determines will provide a better understanding of the disciplinary rate or rate of disciplinary disparity of a particular school or school district;

(2) Shall include the achievement status for a school district identified in the report; and

(3) Shall identify discipline-related strategies, alternatives, and resources available to school districts.

(d) The department shall track the progress that school districts in the state have made in reducing the disciplinary rate and rate of disciplinary disparity and:

(1) Identify school districts that make progress reducing the disciplinary rate and rate of disciplinary disparity and assess the successful strategies used by those school districts;

(2) Assess the gains, if any, in student academic achievement that correspond to the reduction of disciplinary rates and rates of disciplinary disparity; and

(3) Report annually to the state board the information under subdivisions (d)(1) and (2) of this section, including:

(A) The progress made for the year;

(B) Successful strategies that may be used by other school districts; and

(C) The corresponding gains, if any, in student academic achievement.

(e)(1) The department shall survey districts to determine which school districts are currently implementing evidence-based strategies, including without limitation:

(A) Positive behavior interventions and support systems; and

(B) Restorative justice.

(2) The department shall:

(A) Develop information concerning the resources needed by school districts to reduce discipline and the restraint of students with disabilities using the strategies in subdivision (e)(1) of this section; and

(B) Provide the information for inclusion in the educational adequacy study required under § 10-3-2102(a)(1)-(4).

History. Acts 2013, No. 1329, § 4.

A.C.R.C. Notes. Acts 2013, No. 1329, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds that:

"(1) There are many factors that contribute to poor student performance including lost instruction time or chronic absence;

"(2) A student who has been suspended even once is less likely to graduate;

"(3) Discipline that keeps students engaged in the learning process and in the school community is more effective than discipline that interrupts the learning

process and separates the student from the school community;

"(4) Out-of-school suspensions are necessary in some situations but the excessive use of out-of-school suspension as a discipline measure is harmful to the educational process; and

"(5) Disparity in discipline rates does not necessarily indicate discrimination; it can result from an ineffective school climate or from cultural strategies that are not successful in engaging the academic efforts of all students."

SUBCHAPTER 7 — HEALTH

SECTION.

6-18-707. Prescription asthma inhaler or auto-injectable epinephrine.

6-18-708. Health and safety in public schools.

SECTION.

6-18-709. Public School Health Services Advisory Committee.

6-18-710. Student athlete concussion education.

A.C.R.C. Notes. Acts 2011, No. 1214, § 2, provided: "Public School Athletic Trainer Pilot Program.

"(a)(1) The Department of Education shall provide grants for providing a access to one (1) or more athletic trainers to public schools in Arkansas through the two-year Public School Athletic Trainer Pilot Program.

"(2) The pilot program grants shall be awarded before the 2011-2012 school year in order to allow time for program participants to employ the athletic trainers.

"(b) The department shall accept and review applications for participation in the pilot program from:

"(1) Any school that is classified as Class 6A or below by the Arkansas Activities Association; and

"(2) Education service cooperatives.

"(c) To be eligible for participation in the pilot program, a school shall agree to provide a room and supplies for the athletic trainer.

"(d)(1) The grant recipients shall be selected by the department in consultation with the Arkansas Legislative Task Force on Athletic Training in Public Schools.

"(2) At least one (1) rural education service cooperative shall be selected to receive a grant.

"(e) The pilot program shall:

"(1) Begin with the 2011-2012 school year;

"(2) Be implemented by the participating education service cooperatives; and

"(3) Be monitored by:

"(A) The nonvoting members of the Arkansas Legislative Task Force on Athletic Training in Public Schools, or their designee; or

"(B)(i) A subcommittee of the House Committee on Education, or its designee.

"(ii) The subcommittee may be a joint subcommittee of both the House Committee on Education and the Senate Committee on Education.

"(e) At the end of the pilot program, the persons monitoring the pilot program shall provide a report to the General Assembly containing an evaluation of the pilot program and any additional recommendations for the employment and use of athletic trainers in Arkansas public schools."

Acts 2011, No. 1214, § 3, provided: "Section 1(k) of Act No. 1453 of the 2009 regular session of the 87th General Assembly, concerning the Arkansas Legislative Task Force on Athletic Training in Public Schools, is amended to read as follows:

"(k) The task force shall be abolished on December 31, 2012."

Acts 2011, No. 1214, § 4, provided: "Section 2(b) of Act No. 1453 of the 2009 regular session of the 87th General Assembly, concerning the Arkansas Legislative Task Force on Athletic Training in Public Schools, is amended to read as follows:

"(b) The task force shall submit a written report to the House Committee on Education and the Senate Committee on Education no later than November 1, 2012."

Acts 2011, No. 1214, § 5, provided: "(a) The Arkansas Legislative Task Force on Athletic Training in Public Schools shall develop a web-based survey to be completed by each public school in Arkansas through the Department of Education website.

"(b) The survey shall include without limitation questions concerning:

"(1) The recruitment, hiring, and retention of athletic trainers;

"(2) Professional development and certification or licensure of athletic training personnel; and

"(3) Procedures and training on the recognition and management of the following events or conditions that may be encoun-

tered by a student during athletic training and activities:

“(A) A concussion, dehydration, or other health emergency;

“(B) An environmental issue that threatens the health or safety of students; and

“(C) A communicable disease.

“(c) The survey shall be reviewed by the nonvoting members of the Arkansas Legislative Task Force on Athletic Training in Public Schools and a report on the survey results and any additional recommendations shall be included in the task force’s report to the General Assembly.”

Acts 2013, No. 1177, § 1, provided: “Uncodified Section 2(a)(2) of Act No. 1214 of the 2011 regular session of the 88th General Assembly, concerning the Arkansas Legislative Task Force on Athletic Training in Public Schools, is amended to read as follows:

“(2) The pilot program grants shall be awarded before the 2013-2014 school year in order to allow time for program participants to employ the athletic trainers.”

Acts 2013, No. 1177, § 2, provided: “Uncodified Section 2(e)(1) of Act No. 1214 of the 2011 regular session of the 88th General Assembly, concerning the Arkansas Legislative Task Force on Athletic Training in Public Schools, is amended to read as follows:

“(1) Begin with the 2013-2014 school year;”

Acts 2013, No. 1177, § 3, provided:

“(a) There is created the Arkansas Legislative Task Force on Athletic Training in Public Schools.

“(b) The task force shall consist of the following:

“(1) Voting members:

“(A) Three (3) members of the General Assembly appointed by the Chair of the Senate Committee on Education;

“(B) Three (3) members of the General Assembly appointed by the Chair of the Senate Committee on Public Health, Welfare, and Labor;

“(C) Three (3) members of the General Assembly appointed by the Chair of the House Committee on Education; and

“(D) Three (3) members of the General Assembly appointed by the Chair of the House Committee on Public Health, Welfare, and Labor; and

“(2) Nonvoting members:

“(A) One (1) member from the Department of Workforce Education;

“(B) One (1) member from the Department of Education;

“(C) One (1) member from the Department of Higher Education;

“(D) One (1) member from the Arkansas Athletic Trainers Association;

“(E) One (1) member from the Arkansas School Nurses Association;

“(F) One (1) member from the Arkansas Activities Association;

“(G) One (1) member from the Arkansas Rural Education Association; and

“(H) One (1) member from the Arkansas Association of Educational Administrators.

“(3) The director of each department or association under subdivision (b)(2) of this section shall designate a person in the department or association to serve on the task force.

“(c)(1) A chair shall be selected by majority vote of all voting members in attendance at the first meeting of the task force, which shall be held within thirty (30) days of the effective date of this act.

“(2) Only voting members of the task force are eligible to chair the task force.

“(3) The chair shall exercise his or her vote only in the case of a tie vote.

“(d) Meetings of the task force shall be held at least one (1) time every three (3) months but may occur more often at the call of the chair or by petition by a majority of the voting members.

“(e) The task force may solicit, accept, and expend gifts and grants.

“(f) If a vacancy occurs on the task force, the vacancy shall be filled by the same process as the original appointment.

“(g) The task force shall establish rules and procedures for conducting business.

“(h) Legislative members of the task force may receive reimbursement for expenses and per diem at the same rate and from the same source as provided by law for members of the General Assembly attending meetings of interim committees.

“(i) A majority of the members of the task force constitutes a quorum for transacting business of the task force.

“(j) The Bureau of Legislative Research shall provide staff for the task force.

“(k) The task force shall be abolished on December 31, 2014.”

Acts 2013, No. 1177, § 4, provided:

“(a) The Arkansas Legislative Task

Force on Athletic Training in Public Schools shall:

“(1) Study health care issues concerning secondary school student athletes;

“(2) Evaluate the current athletic training curriculum and recommend changes to the athletic training curriculum;

“(3) Monitor the standards of care for student athletes; and

“(4) Explore funding opportunities for potential pilot programs.

“(b) The task force shall submit a written report to the House Committee on Education and the Senate Committee on Education no later than November 1, 2014.”

6-18-703. School-based health clinics.

A.C.R.C. Notes. Acts 2013, No. 1309, § 32, provided: “STATE FUND RESTRICTIONS. No state funds shall be used for abortion referral in public schools, or for abortion services. Funds shall be expended in accordance with Arkansas Code Annotated §6-18-703.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

Acts 2013, No. 1310, § 29, provided: “STATE FUND RESTRICTIONS. No state funds shall be used for abortion referral in public schools, or for abortion services. Funds shall be expended in ac-

cordance with Arkansas Code Annotated § 6-18-703.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

Acts 2013, No. 1375, § 25, provided: “STATE FUND RESTRICTIONS. No state funds shall be used for abortion referral in public schools, or for abortion services. Funds shall be expended in accordance with Arkansas Code Annotated § 6-18-703.”

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

6-18-707. Prescription asthma inhaler or auto-injectable epinephrine.

(a) This section shall be known and may be cited as “Alex’s Law”.

(b) As used in this section:

(1)(A) “Medication” means a drug as that term is defined in § 21 U.S.C. 321(g) of the Federal Food, Drug and Cosmetic Act as in existence on January 1, 2005.

(B) “Medication” includes inhaled bronchodilators and auto-injectable epinephrine; and

(2) “Self-administration” means a person’s discretionary use of a medication pursuant to a prescription or written direction from a licensed health care practitioner.

(c)(1) The Department of Education shall develop guidelines for use in school districts that allows a student to carry and use an asthma inhaler or auto-injectable epinephrine, or both, while in school, at an on-site school-sponsored activity, or at an off-site school-sponsored activity.

(2)(A) The procedure shall include, at a minimum, the following provisions:

(i) The parent or guardian of a student who needs to carry an asthma inhaler or auto-injectable epinephrine, or both, shall provide

the school with written authorization for the student to carry an asthma inhaler or auto-injectable epinephrine, or both, on his or her person for use while in school, at an on-site school-sponsored activity, or at an off-site school-sponsored activity; and

(ii) The authorization shall be valid only for the duration of the school year at the school that the student is attending at the time the authorization is provided. The authorization must be renewed for each school year or if the student changes schools in order for the student to carry an asthma inhaler or auto-injectable epinephrine, or both, on his or her person.

(B) The parent or guardian of a student who needs to carry an asthma inhaler or auto-injectable epinephrine, or both, shall provide the school with appropriate medical documentation, which shall include:

(i) Evidence that the asthma inhaler or auto-injectable epinephrine, or both, have been prescribed by a health care practitioner with prescriptive privileges;

(ii) Evidence that the student needs to carry the asthma inhaler or auto-injectable epinephrine, or both, on his or her person due to a medical condition; and

(iii) A copy of an individualized health care plan for the student prepared in accordance with § 6-18-1005 and any related rules of the department.

(C) All medical documentation provided with regard to a student who carries an asthma inhaler or auto-injectable epinephrine, or both, shall be kept on file at the school the student attends in a location that is readily accessible in the event of an asthma or anaphylaxis emergency.

(D) A student's asthma inhaler or auto-injectable epinephrine, or both, shall be supplied by the student's parent or guardian and shall be stored and transported in its original prescription-labeled container.

(E) The student shall demonstrate to the health care practitioner who wrote the prescription and the school nurse, if the school nurse is available, the skill level and responsibility necessary to use and administer the asthma inhaler or auto-injectable epinephrine, or both.

(F)(i) A student with asthma is not required by this section or any related rule or school procedure to carry the student's asthma inhaler or auto-injectable epinephrine, or both, on his or her person.

(ii) If a student with asthma does not carry the student's asthma inhaler or auto-injectable epinephrine, or both, on his or her person, then the student's parent or guardian shall provide the school with appropriate medication in the event of an asthma or anaphylaxis emergency, which shall be immediately available to the student in an emergency.

(G) A student who carries the student's asthma inhaler or auto-injectable epinephrine, or both, on his or her person may provide the

school with appropriate medication in the event of an asthma or anaphylaxis emergency, which shall be immediately available to the student in an emergency.

(H) A student is prohibited from sharing, transferring, or in any way diverting his or her own medications to any other person.

(d) No school district, school district employee, or agent of a school district shall be liable for injury to a student caused by his or her use of a prescription inhaler or self-administration of medication.

(e)(1) A school district or public charter school may authorize a school nurse to:

(A) Provide an epinephrine auto-injector to a student that meets the prescription on file or any personnel authorized under a student's individualized health care plan to administer an epinephrine auto-injector to the student;

(B) Administer an epinephrine auto-injector that meets the prescription on file to a student who has an individualized health care plan that authorizes the use of an epinephrine auto-injector; and

(C) Administer an epinephrine auto-injector to a student who the school nurse in good faith professionally believes is having an anaphylactic reaction.

(2) A school nurse shall administer an epinephrine auto-injector under a standing protocol from a physician licensed to practice medicine in this state.

(3) A school nurse that receives a supply of epinephrine auto-injectors under § 20-13-405 for use at a public school shall maintain the supply of epinephrine auto-injectors at the school in a locked, secure location.

(4)(A) Regardless of whether or not a student's parents have signed a waiver of liability, when a school nurse administers an epinephrine auto-injector to a student who the school nurse in good faith professionally believes is having an anaphylactic reaction, the following persons are immune from any damage, loss, or liability as a result of an injury arising from the use of an epinephrine auto-injector:

(i) The school district or public charter school and its employees and agents; and

(ii) A physician providing standing protocol or prescription for epinephrine auto-injectors maintained at a school.

(B) This subdivision (e)(4) does not provide immunity from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of a person in administering an epinephrine auto-injector to a student under this section.

(f) Beginning January 1, 2014, a school district or public charter school in this state shall:

(1) Adopt and implement policies for the possession and administration of epinephrine in each school; and

(2) Develop a health plan to implement a certificate from a licensed physician under subsection (h) of this section.

(g) Epinephrine shall be administered:

(1)(A) By a school nurse; or

(B) By a school district or public charter school employee who holds a certificate under subsection (h) of this section, is trained in the administration of epinephrine, and is designated as a care provider; and

(2) To a student believed to be having a life-threatening anaphylactic reaction.

(h)(1) A licensed physician shall issue a certificate under the Insect Sting and Other Allergic Reactions Emergency Treatment Act, § 20-13-401 et seq., authorizing a school nurse or a school district or public charter school employee who is trained in the administration of epinephrine to possess and administer epinephrine.

(2) The certificate shall specify the circumstances under which epinephrine may be administered.

History. Acts 2005, No. 1694, § 1; The 2013 amendment by No. 1437 2013, No. 757, § 1; 2013, No. 1437, § 1. added (f) through (h).

Amendments. The 2013 amendment by No. 757 added (e).

6-18-708. Health and safety in public schools.

(a) A school district shall develop procedures concerning student physical activity in its public schools that include without limitation the recognition and management of the following events or conditions that may be encountered by a student during athletic training and physical activities:

(1) A concussion, dehydration, or other health emergency;

(2) An environmental issue that threatens the health or safety of students; and

(3) A communicable disease.

(b)(1) Every three (3) years as part of the requirements for professional development, a person employed by a school district as an athletics coach shall complete training on the events and conditions identified in subsection (a) of this section.

(2) The training may include a component on best practices for a coach to educate parents of students involved in athletics on sports safety.

History. Acts 2011, No. 1214, § 1.

6-18-709. Public School Health Services Advisory Committee.

(a)(1) There is created a Public School Health Services Advisory Committee to consist of nineteen (19) members.

(2) The Director of the Department of Health shall appoint:

(A) One (1) member to represent the Department of Health;

(B) One (1) member to represent the Arkansas State Board of Nursing;

(C) One (1) member to represent the Arkansas Center for Health Improvement;

(D) One (1) member to represent the Department of Health, Child and Adolescent Health; and

(E) One (1) member to represent the Department of Health, Office of Minority Health and Health Disparities.

(3) The Commissioner of Education shall appoint:

(A) Five (5) members to represent the Department of Education as follows:

(i) One (1) member from the Office of Legal Services;

(ii) One (1) member from the Division of Fiscal and Administrative Services;

(iii) One (1) member from the Division of Learning Services, Special Education Unit;

(iv) One (1) member from the Division of Learning Services, Coordinated School Health Unit, Health Services; and

(v) One (1) member from Division of Learning Services, Coordinated School Health Unit, School Based Mental Health, Counseling and Social Services;

(B) One (1) member to represent the Arkansas School Nurses Association;

(C) One (1) member to represent the Arkansas Association of Educational Administrators;

(D) One (1) member to represent the Arkansas School Boards Association;

(E) One (1) member to represent the Arkansas Education Association;

(F) One (1) member who is a public school principal;

(G)(i) Two (2) members each of whom is the parent of a child with special health care needs.

(ii) A parent appointed under this subdivision (a)(2)(G) shall not be an employee of:

(a) The Department of Health;

(b) The Department of Education; or

(c) A school district;

(H) One (1) member to represent the Arkansas Rural Education Association; and

(I) One (1) member to represent the Arkansas Advocates for Children and Families.

(4) The term of the Public School Health Services Advisory Committee shall expire on December 31, 2014.

(5) If a vacancy occurs, the officer who made the original appointment shall appoint a person who represents the same constituency as the member being replaced.

(6)(A) The commissioner shall designate one (1) of the members as the chair of the first meeting.

(B) The chair shall call the first meeting of the Public School Health Services Advisory Committee.

(C) At the first meeting, the Public School Health Services Advisory Committee shall elect one (1) of its members to act as chair for a term of one (1) year.

(7)(A) A majority of the members shall constitute a quorum for the transaction of business.

(B) All members are voting members except the chair, who shall vote only to break a tie vote.

(8)(A) The Public School Health Services Advisory Committee shall meet at least once every quarter.

(B) Meetings may be conducted in whole or in part through the use of live conferencing technology, including without limitation video, telephone, or Internet conferencing technology.

(9) The Department of Education shall provide office space and staff for the Public School Health Services Advisory Committee.

(10) Members of the Public School Health Services Advisory Committee shall serve without pay but may receive expense reimbursement in accordance with § 25-16-902 if funds are available.

(b) The Public School Health Services Advisory Committee shall conduct a one-year study to consider without limitation the following:

(1) The on-campus health care needs of public school students;

(2) Who is providing those on-campus health care services, including without limitation the extent to which those services are provided by:

(A) Registered nurses;

(B) Other healthcare providers; and

(C) Other school personnel;

(3) The extent to which public school students do not receive the needed on-campus health care services identified by the Public School Health Services Advisory Committee;

(4) The availability and condition of existing facilities and equipment at public schools for providing these services, including without limitation:

(A) School nurse office space with privacy, file storage, telephone connection, heat, and air conditioning;

(B) Medication storage including without limitation refrigeration and locked cabinets;

(C) Plumbing facilities for use by school nurses, including sinks, hot and cold running water, and toilets; and

(D) Computer and Internet access for:

(i) Medical records; and

(ii) Reporting on the Arkansas Public School Computer Network;

(5) The cost of providing needed on-campus health care services and the funds available to a school district for that purpose; and

(6) School nurse health care related duties and non-health care related duties.

(c) Upon completion of the study, the Public School Health Services Advisory Committee shall develop guidelines for the:

(1) Number of full-time nurses needed, including without limitation whether or not each school campus should have a minimum of one (1) full-time registered nurse;

- (2) Educational level and licensure level of a school nurse;
- (3) Job requirements of a school nurse, including without limitation guidelines concerning job duties that are non-health care related;
- (4) Salary level for school nurses;
- (5) Types of on-campus health care services, if any, that may be performed by personnel other than the school nurse;
- (6) Management of medical records;
- (7) Management and storage of medications;
- (8) Facilities and equipment used in delivering needed health care services;
- (9) Timeline for implementing the guidelines, including without limitation whether or not the Public School Health Services Advisory Committee recommends that the implementation of the guidelines be phased in; and
- (10) Incentives that may be offered to schools and school districts for:
 - (A) Exemplary school health care; and
 - (B) Implementing voluntary best practices identified in the guidelines.

(d) By September 1, 2014, the Public School Health Services Advisory Committee shall submit a report on its findings, recommendations, and guidelines to the House Committee on Education and the Senate Committee on Education.

(e)(1) The Public School Health Services Advisory Committee shall continue to meet until its term expires and make any further recommendations to the House Committee on Education and the Senate Committee on Education that the Public Health Services Advisory Committee deems necessary.

(2) During its term, the Public School Health Services Advisory Committee shall conduct further study or provide additional information or reports at the request of the House Committee on Education and the Senate Committee on Education.

(f)(1) The Public School Health Services Advisory Committee shall identify the information it needs from public school districts to conduct the study and communicate those requests for information to the Department of Education.

(2)(A) Each public school shall report the information requested to the Department of Education not less than monthly.

(B) A school shall continue to report the information until the Public School Health Services Advisory Committee's term has expired.

(3) The Department of Education shall provide the information to the Public School Health Services Advisory Committee in a manner that protects student privacy under state and federal laws.

History. Acts 2013, No. 414, § 2.

A.C.R.C. Notes. Acts 2013, No. 414, § 1, provided: "FINDINGS. The General Assembly finds that:

"(1) A major goal of public education is to assist all students in reaching their full academic potential. In this regard, school nurses:

“(A) Are instrumental in the early detection of health problems that can interfere with learning or that lead to more serious or disabling health conditions;

“(B) Prevent disease by teaching and encouraging healthy lifestyles and habits that have lifelong implications for children and their families;

“(C) Provide valuable health services including administering medications and care management necessary for students who have chronic or episodic health conditions and disabilities;

“(D) Care for students who incur injuries at school including injuries that require medical attention;

“(E) Assist families and students in accessing health care and community health services; and

“(F) Provide direct health services and professional advice to teachers and staff members regarding health problems and concerns;

“(2) Schools are being asked to play an increasingly expanded role in protecting the health of our children. In this regard, school nurses:

“(A) Are responsible for monitoring the immunization of children, evaluating hearing and vision of children, screening

for scoliosis, and providing appropriate referrals for positive findings;

“(B) Apply the nursing process of assessment, planning, intervention, and evaluation to implement medically-ordered treatments so that chronically ill children are able to attend school;

“(C) Administer prescription medications required to be given to children during the school day;

“(D) Identify and report child abuse;

“(E) Identify drug and alcohol problems;

“(F) Provide counseling and assistance for teenage parents;

“(G) Provide HIV/AIDS education; and

“(H) Respond to emergency situations in which students must be assessed and in which emergency medications are often required;

“(3) There is a shortage of funded professional registered nurse positions in schools resulting in the disparity of on-campus health care services being provided to students; and

“(4) A study should be conducted concerning the provision of better on-campus health care services for Arkansas public school children to inform the General Assembly so that it may determine the best policy for the state.”

6-18-710. Student athlete concussion education.

(a)(1) As used in this section, “youth athletic activity” means an organized athletic activity in which the participants, a majority of whom are under nineteen (19) years of age, are engaged in an athletic game or competition against another team, club, or entity, or in practice or preparation for an organized athletic game or competition against another team, club, or entity.

(2) “Youth athletic activity” does not include a college or university activity or an activity that is incidental to a nonathletic program.

(b) The General Assembly finds that:

(1)(A) Concussion is one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities.

(B) The Centers for Disease Control and Prevention estimates that as many as three million nine hundred thousand (3,900,000) sports-related and recreation-related concussions occur in the United States each year.

(C) A concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull.

(D) The risk of catastrophic injuries or death is significant when a concussion or head injury is not properly evaluated and managed;

(2)(A) Concussion is a type of brain injury that can range from mild to severe and can disrupt the way the brain normally works.

(B) Concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other, the ground, or with obstacles.

(C) Concussions can occur with or without loss of consciousness, but the vast majority occur without loss of consciousness;

(3) Continuing to participate in a youth athletic activity after sustaining a concussion or exhibiting symptoms of head injury leaves the youth athlete especially vulnerable to greater injury and even death;

(4) Despite the existence of generally recognized return-to-play standards for concussion and head injury, some affected youth athletes are prematurely returned to play, resulting in a risk of further physical injury or death to youth athletes in the State of Arkansas;

(5) The Arkansas Activities Association is a recognized national leader in the development and implementation of concussion protocols for student athletes in grades seven through twelve (7-12); and

(6) It is necessary to establish concussion protocols substantially similar to those developed and implemented by the Arkansas Activities Association to protect all student athletes in Arkansas.

(c) The Department of Health shall develop concussion protocols substantially similar to those developed and implemented by the Arkansas Activities Association to protect all youth athletes engaged in youth athletic activities in Arkansas.

(d) Guidelines developed under this section shall include:

(1) Pertinent information and forms to inform and educate coaches, youth athletes, and the parents or guardians of youth athletes of the nature and risks of concussions and head injuries, including the risks of continuing to play after a concussion or head injury;

(2) A requirement that the person operating a youth athletic activity annually shall distribute a concussion and head injury information sheet to each person who intends to participate in the youth athletic activity;

(3) A requirement that a person shall not participate in a youth athletic activity unless the person returns the information sheet signed by the person and, if he or she is under eighteen (18) years of age, by his or her parent or guardian; and

(4)(A) A requirement that a youth athlete who is suspected of sustaining a concussion or who has had an injury in a game, an activity, or a practice for a game shall be removed from the game, activity, or practice at that time.

(B)(i) A youth athlete who has been removed under this subdivision (d)(4) shall not return to play until the athlete is evaluated by a licensed healthcare provider trained in the evaluation and management of concussions and receives written clearance to return to play from that healthcare provider.

(ii)(a) The healthcare provider may be a volunteer.

(b) A volunteer under subdivision (d)(4)(B)(ii)(a) of this section who authorizes a youth athlete to return to play is not liable for civil

damages resulting from any act or omission in the rendering of care other than acts or omissions constituting gross negligence or willful or wanton misconduct.

History. Acts 2013, No. 1435, § 1.

SUBCHAPTER 10 — PUBLIC SCHOOL STUDENT SERVICES ACT

SECTION.

6-18-1005. Student services program defined.

6-18-1005. Student services program defined.

(a) "Student services program" means a coordinated effort, which shall include, but is not limited to:

(1) Guidance and counseling services, which shall include, but are not limited to:

(A) The availability of individual and group counseling to all students;

(B) Orientation programs for new students at each level of education and for transferring students;

(C) Academic advisement for class selection by establishing academic goals in elementary, middle, and high school;

(D) Consultation with parents, faculty, and out-of-school agencies concerning student problems and needs;

(E) Utilization of student records and files;

(F) Interpretation of augmented, criterion-referenced, or norm-referenced assessments and dissemination of results to the school, students, parents, and community;

(G) The following up of early school dropouts and graduates;

(H) A school-initiated system of parental involvement;

(I) An organized system of informational resources on which to base educational and vocational decision making;

(J) Educational, academic assessment, and career counseling, including advising students on the national college assessments, workforce opportunities, and alternative programs that could provide successful high school completion and postsecondary opportunities for students;

(K) Coordinating administration of the Test for Adult Basic Education or the General Educational Development pretest to students by designating appropriate personnel, other than the school guidance counselor, to administer the tests;

(L) Classroom guidance, which shall be limited to forty-minute class sessions, not to exceed three (3) per day or ten (10) per week; and

(M) Guidance in understanding the relationship between classroom performance and success in school;

(2) Psychological services, which shall include, but are not limited to, the following:

- (A) Evaluation of students with learning or adjustment problems;
 - (B) Evaluation of students in exceptional child education programs;
 - (C) Consultation and counseling with parents, students, and school personnel to ensure that all students are ready to succeed and that all students are preparing for college and work;
 - (D) A system for the early identification of learning potential and factors that affect the child's educational performance;
 - (E) A system of liaison and referrals, with resources available outside the school; and
 - (F) Written policies that assure ethical procedures in psychological activities;
- (3) Visiting teacher and school social work services, which shall include, but are not limited to, the following:
- (A) Providing casework to assist in the prevention and remediation of problems of attendance, behavior, adjustment, and learning; and
 - (B) Serving as liaison between the home and school by making home visits and referring students and parents to appropriate school and community agencies for assistance;
- (4) Career services, which shall include, but are not limited to, the dissemination of career education information, appropriate course-taking patterns, and the effect of taking more rigorous courses so that students are better prepared for college and work success;
- (5) Group conflict resolution services, which shall include, but are not limited to, the following:
- (A) Educational and social programs that help students develop skills enabling them to resolve differences and conflicts between groups;
 - (B) Programs designed to promote understanding, positive communication, and greater utilization of a race relations specialist or human relations specialist to assist in the development of intergroup skills; and
 - (C) Programs designed to prevent bullying;
- (6) Health services, which shall include, but are not limited to, the following:
- (A) Students with special health care needs, including the chronically ill, medically fragile, and technology-dependent, and students with other health impairments shall have individualized health care plans;
 - (B)(i) Invasive medical procedures required by students and provided at the school shall be performed by trained, licensed personnel who are licensed to perform the task subject to § 17-87-102(6)(D) or other professional licensure statutes, unless permitted under § 17-87-103(10) and (11).
 - (ii) The regular classroom teacher shall not perform these tasks, except that public school employees may volunteer to be trained and administer glucagon to a student with type 1 diabetes in an emergency situation permitted under § 17-87-103(11); and

(C) Custodial health care services required by students under individualized health care plans shall be provided by trained school employees other than the regular classroom teachers; and

(7) The distribution of a suicide prevention public awareness program developed for distribution by the Arkansas Youth Suicide Prevention Task Force.

(b) School counselors shall spend at least seventy-five percent (75%) of work time each month during the school year providing direct counseling related to students and shall devote no more than twenty-five percent (25%) of work time each month during the school year to administrative activities provided that the activities relate to the provision of guidance services.

History. Acts 1991, No. 908, §§ 3, 6; 1997, No. 1275, § 2; 1999, No. 1565, § 1; 2003, No. 681, § 2; 2005, No. 1757, § 2; 2005, No. 1949, § 2; 2007, No. 1573, §§ 27, 28; 2011, No. 1172, § 1; 2011, No. 1204, § 2.

Amendments. The 2011 amendment

by No. 1172 substituted “each month during the school year” for “each week” twice in (b).

The 2011 amendment by No. 1204 inserted “unless permitted under § 17-87-103(10) and (11)” in (a)(6)(B)(i); and added the exception in (a)(6)(B)(ii).

SUBCHAPTER 14 — FAMILY RESOURCE CENTERS ACT [REPEALED.]

SECTION.
6-18-1401 — 6-18-1409. [Repealed.]

6-18-1401 — 6-18-1409. [Repealed.]

Publisher’s Notes. This subchapter, concerning Family Resource Centers Act, was repealed by Acts 2013, No. 1155, § 17. This subchapter was derived from 6-18-1401. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1402. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1403. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1404. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1405. Acts 2003 (2nd Ex. Sess.), No. 68, § 1;.

6-18-1406. Acts 2003 (2nd Ex. Sess.), No. 68, § 1; 2009, No. 376, § 37.

6-18-1407. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1408. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

6-18-1409. Acts 2003 (2nd Ex. Sess.), No. 68, § 1.

SUBCHAPTER 16 — VOLUNTARY UNIVERSAL ACT ASSESSMENT PROGRAM ACT

SECTION.

6-18-1601. Title. [Effective July 1, 2014.]

6-18-1602. Definitions. [Effective until July 1, 2014.]

6-18-1602. Definitions. [Effective July 1, 2014.]

6-18-1603. Creation. [Effective July 1, 2014.]

SECTION.

6-18-1604. Purpose. [Effective July 1, 2014.]

6-18-1606. Implementation. [Effective July 1, 2014.]

6-18-1608. Reporting. [Effective July 1, 2014.]

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current

school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 1462, § 9: July 1, 2014. Effective date clause provided: “This act is effective on July 1, 2014.”

6-18-1601. Title. [Effective July 1, 2014.]

This subchapter shall be known and may be cited as the “Universal ACT Assessment Program Act”.

History. Acts 2007, No. 881, § 1; 2013, No. 1462, § 1.

For text of section effective until July 1, 2014, see the bound volume.

Amendments. The 2013 amendment deleted “Voluntary” preceding “Universal.”

Effective Dates. Acts 2013, No. 1462, § 9: July 1, 2014. Effective date clause provided: “This act is effective on July 1, 2014.”

6-18-1602. Definitions. [Effective until July 1, 2014.]

As used in this subchapter:

(1) “ACT Assessment” means a test of student educational development that measures student readiness for future learning and that may be used by institutions of higher education as part of their admissions, placement, and scholarship processes and by high schools to improve college and workforce readiness; and

(2) “Smart Core” means the required curriculum that is part of Smart Future, a state initiative focused on improving Arkansas public schools for all students so they are prepared for life beyond graduation.

History. Acts 2007, No. 881, § 1; 2009, No. 1469, § 8.

Publisher’s Notes. For text of section effective July 1, 2014, see the following version.

Amendments. The 2009 amendment substituted “Smart Future” for “Next Step” in (2).

6-18-1602. Definitions. [Effective July 1, 2014.]

As used in this subchapter:

(1) “ACT Assessment” means a test of student educational development that measures student readiness for future learning and that may

be used by institutions of higher education as part of their admissions, placement, and scholarship processes and by high schools to improve college and workforce readiness; and

(2) “Smart Core” means:

(A) The college and career readiness curriculum by that name under the rules of the State Board of Education; or

(B) A college and career readiness curriculum that is:

(i) Established by rules of the state board in coordination with the Department of Higher Education; and

(ii) Substituted for the curriculum named “Smart Core”.

History. Acts 2007, No. 881, § 1; 2009, No. 1469, § 8; Acts 2013, No. 1462, § 2.

Publisher’s Notes. For text of section effective until July 1, 2014, see the preceding version.

Amendments. The 2009 amendment substituted “Smart Future” for “Next Step” in (2).

The 2013 amendment rewrote (2).

Effective Dates. Acts 2013, No. 1462, § 9: July 1, 2014. Effective date clause provided: “This act is effective on July 1, 2014.”

6-18-1603. Creation. [Effective July 1, 2014.]

There is created in the Department of Education the Universal ACT Assessment Program to be developed, implemented, and administered by the department as provided in this subchapter.

History. Acts 2007, No. 881, § 1; 2013, No. 1462, § 3.

Publisher’s Notes. For text of section effective until July 1, 2014, see the bound volume.

Amendments. The 2013 amendment

deleted “Voluntary” preceding “Universal.”

Effective Dates. Acts 2013, No. 1462, § 9: July 1, 2014. Effective date clause provided: “This act is effective on July 1, 2014.”

6-18-1604. Purpose. [Effective July 1, 2014.]

The purpose of the Universal ACT Assessment Program is to:

(1) Improve the college readiness of all students in grade eleven (11);

(2) Prevent or minimize the continued remediation of nearly fifty percent (50%) of all students entering Arkansas institutions of higher education in one (1) or more subjects because they do not meet the college readiness score of nineteen (19) or higher on the ACT Assessment;

(3) Advance the number of students, including students of low income, English-language learners, and minority students, taking the ACT Assessment while in grade eleven (11) to increase the number of first-generation college students;

(4) Increase the college participation rates among all racial and ethnic groups;

(5) Improve preparation for college and the workforce;

(6) Improve the course selection patterns of high school students;

(7) Increase the early identification of college-ready students;

(8) Support students participating in the Smart Core by providing a baseline for their college and workforce readiness and an opportunity to benefit from earlier remediation such as the College Preparatory Enrichment Program or course selection review; and

(9) Provide a link between what students have learned, what they need to learn, and what is necessary in order to be college or workforce ready or both by providing expectations and measuring their progress.

History. Acts 2007, No. 881, § 1; Acts 2013, No. 1462, § 4.

Publisher's Notes. For text of section effective until July 1, 2014, see the bound volume.

Amendments. The 2013 amendment

deleted "Voluntary" preceding "Universal."

Effective Dates. Acts 2013, No. 1462, § 9: July 1, 2014. Effective date clause provided: "This act is effective on July 1, 2014."

6-18-1606. Implementation. [Effective July 1, 2014.]

Beginning with the 2014-2015 school year, the Universal ACT Assessment Program may provide each student in grades nine (9), ten (10), or eleven (11) with the opportunity to take the ACT Assessment while in grades nine (9), ten (10), or eleven (11) without any charge by using school district funding, including National School Lunch Act funds, to pay for the exams as approved by the Department of Education.

History. Acts 2007, No. 881, § 1; 2013, No. 1462, § 5.

Publisher's Notes. For text of section effective until July 1, 2014, see the bound volume.

Amendments. The 2013 amendment substituted "2014-2015" for "2008-2009";

deleted "Voluntary" preceding "Universal"; and substituted "grades nine (9), ten (10), or" for "grade" in two places.

Effective Dates. Acts 2013, No. 1462, § 9: July 1, 2014. Effective date clause provided: "This act is effective on July 1, 2014."

6-18-1608. Reporting. [Effective July 1, 2014.]

The Department of Higher Education and the Department of Education shall submit a combined annual report to the Legislative Council by December 1 of each year that establishes compliance with this subchapter, provides data on the number of participants in the Universal ACT Assessment Program, and outlines the impact of this program on the college readiness of high school seniors and the remediation rates at institutions of higher education.

History. Acts 2007, No. 881, § 1; Acts 2013, No. 1462, § 7.

Publisher's Notes. For text of section effective until July 1, 2014, see the bound volume.

Amendments. The 2013 amendment

deleted "Voluntary" preceding "Universal."

Effective Dates. Acts 2013, No. 1462, § 9: July 1, 2014. Effective date clause provided: "This act is effective on July 1, 2014."

SUBCHAPTER 17 — INTERNATIONAL STUDENT EXCHANGE VISITOR PLACEMENT ORGANIZATION REGISTRATION ACT

SECTION.

- 6-18-1701. Title.
- 6-18-1702. Legislative findings.
- 6-18-1703. Definitions.
- 6-18-1704. Compliance required.
- 6-18-1705. Rules.
- 6-18-1706. International student exchange visitor placement

SECTION.

- organization — Registration.
- 6-18-1707. Informational document.
- 6-18-1708. Violations.

6-18-1701. Title.

This subchapter shall be known as the “International Student Exchange Visitor Placement Organization Registration Act”.

History. Acts 2009, No. 966, § 1.

6-18-1702. Legislative findings.

The General Assembly finds that:

- (1) Many international student exchange visitor placement organizations have been established to provide students from other countries the opportunity to share their histories, languages, and cultures with their counterparts in this state;
- (2) International exchange programs give the state’s students and school faculty the opportunity to share their histories, languages, and cultures with foreign students;
- (3) Arkansas’s own former United States Senator James William Fulbright championed efforts to establish international exchange programs, the most famous of which bears his name, the “Fulbright Fellowships”; and
- (4) This subchapter is necessary to provide a registration procedure and process for these organizations in order to make information concerning these organizations accessible to the people of Arkansas.

History. Acts 2009, No. 966, § 1.

6-18-1703. Definitions.

As used in this subchapter:

- (1) “International student exchange visitor placement organization” or “organization” means a person, partnership, corporation, or other entity that regularly arranges the placement of international student exchange visitors for the purpose, in whole or in part, of allowing the student an opportunity to attend school in the United States; and
- (2) “Representative” means a natural person who is responsible on behalf of an international student exchange visitor placement organization for:
 - (A) The selection of a suitable host family for the placement of a foreign exchange student;

(B) The enrollment of a foreign exchange student in a local public or private school; and

(C) The periodic monitoring of the foreign exchange student and his or her living conditions and educational progress.

History. Acts 2009, No. 966, § 1.

6-18-1704. Compliance required.

An international student exchange visitor placement organization shall not place a foreign exchange student with a host family or in a public or private school in this state without complying with this subchapter.

History. Acts 2009, No. 966, § 1.

6-18-1705. Rules.

The Secretary of State shall adopt necessary rules concerning the registration of international student exchange visitor placement organizations for the implementation of this subchapter.

History. Acts 2009, No. 966, § 1; 2011, deleted “by rule” following “adopt” and substituted “rules” for “regulations.” No. 981, § 9.

Amendments. The 2011 amendment

6-18-1706. International student exchange visitor placement organization — Registration.

(a)(1)(A) Beginning January 1, 2010, for the 2010-2011 school year, an international student exchange visitor placement organization that proposes to place a foreign exchange student in a public or private school in this state shall submit an application for a certificate of registration with the Secretary of State by January 1 immediately preceding the next regular school year in which the organization proposes to place a foreign exchange student.

(B) The Secretary of State shall issue a certificate of registration to the organization by February 1 if the application is in order, otherwise the application shall be returned to the organization with resubmission instructions.

(2)(A) For the purpose of service of process and service of notices, an international student exchange visitor placement organization shall provide the name, address, and telephone number of an officer or employee of the organization authorized to receive and accept service of process and service of notices.

(B) If service of process and service of notices cannot be reasonably given to the officer as provided by the organization, service of process and service of notices shall be effected by service upon the Secretary of State who shall make a reasonable effort to contact and provide any process and notices to the organization.

(b) An application for registration as an international student exchange visitor placement organization shall be submitted in the form prescribed by the Secretary of State. The application shall include:

(1) The name, address, and telephone number of the organization, its chief executive officer, and the person within the organization who has primary responsibility for supervising placements within the state;

(2) The organization's unified business identification number, if any;

(3) Evidence of Council on Standards for International Educational Travel listing, if any;

(4) The organization's federal income tax exemption status;

(5) A statement of compliance declaring that all monetary and nonmonetary compensation paid to employees who are residents of Arkansas has been reported in accordance with current state income tax law;

(6) A list of the organization's placements in Arkansas for the previous academic year, including the number of students placed, their home countries, the school districts in which they were placed if placed in a public school or the private schools in which they were placed, and the length of time of their placements;

(7) The organization's most recent brochure describing its programs;

(8) Evidence of the organization's health and accident insurance;

(9) The names, addresses, and telephone numbers of the organization's local representatives for Arkansas; and

(10) Any other information the Secretary of State determines is necessary for his or her examination of the request by the organization.

(c) The application must be signed by the chief executive officer of the organization and the person within the organization who has primary responsibility for supervising placements within Arkansas.

(d) Organizations that have registered shall inform the Secretary of State of any changes in the information required under subsection (b) of this section within thirty (30) days of the change.

(e)(1) Registration is valid for one (1) year and may be renewed annually.

(2) Organizations registering for the first time in Arkansas must pay an initial registration fee of one hundred fifty dollars (\$150).

(3) The fee to renew a registration is fifty dollars (\$50.00) per year.

(f) Fees collected by the Secretary of State under this section shall be deposited into the State Treasury and credited to the General Revenue Fund.

(g) The information provided the Secretary of State under this section is a public record and shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the Secretary of State's office.

(h) Registration shall not be considered or be represented as an endorsement of the organization by the Secretary of State or the State of Arkansas.

(i)(1) Only an international student exchange visitor placement organization for students from other countries to attend a public or

private school approved by the United States Department of State may be considered for registration.

(2) Only an international student exchange visitor placement organization on the Advisory List of the Council on Standards for International Educational Travel may be considered for registration.

(j) An international student exchange visitor placement organization shall have a local representative who lives within one hundred twenty (120) miles of his or her assigned students.

(k)(1) An international student exchange visitor placement organization shall not place a foreign exchange student in a home or seek admission of a student in a public or private school until the international student exchange visitor placement organization has been registered with the Secretary of State for that school year.

(2) Each year, the Secretary of State shall publish a list of international student exchange visitor placement organizations registered to place foreign exchange students in host homes.

(3) Unless the Secretary of State determines that an application for registration does not comply with the filing requirements of this chapter, the Secretary of State, upon payment of all filing fees, shall file the application, prepare, sign, and file a certificate of registration, and send a copy of the filed certificate of registration with a receipt for the fees to the organization.

History. Acts 2009, No. 966, § 1.

6-18-1707. Informational document.

International student exchange visitor placement organizations that provide services to place students in this state shall provide prior to arrival to each student, host family, and school principal of the school in which the student is being placed an informational document in English that shall include the following:

(1) An explanation of the services to be performed by the organization for the student, host family, and school district, which shall include:

(A) The name, address, and telephone number of the local representative of the placement organization and the local representative's immediate superior; and

(B) The responsibilities and duties of the local representative of the placement organization and the local representative's immediate superior;

(2) A copy of this subchapter; and

(3)(A) Telephone numbers and email addresses that the student, host family, and school district may use for assistance, which shall include the telephone numbers and email addresses of the following organizations:

(i) The United States Department of State; and

(ii) The Council on Standards for International Educational Travel.

(B) The telephone numbers shall include, at a minimum, a telephone number for the organization and the telephone numbers of the organization's national headquarters if any.

History. Acts 2009, No. 966, § 1.

6-18-1708. Violations.

An organization that fails to register as required by this subchapter or that submits false or incorrect information to the Secretary of State in filing statements required by this subchapter, whether or not the statement or report is verified, shall be prohibited from placing students in this state during the following academic year.

History. Acts 2009, No. 966, § 1.

SUBCHAPTER 18 — ARKANSAS COMMISSION ON EYE AND VISION CARE OF SCHOOL-AGE CHILDREN

A.C.R.C. Notes. Acts 2011, No. 176, § 1, provided: "Uncodified Section 5 of Act 755 of 2003, as amended by Act 1438 of 2005, and Act 138 of 2007, concerning the Arkansas Commission on Eye and Vision Care of School Age Children, is repealed to make the act permanent."

Acts 2011, No. 176, § 2, provided: "The Arkansas Code Revision Commission is authorized to codify Uncodified Act 755 of 2003, as amended by Act 1438 of 2005 and Act 138 of 2007."

Effective Dates. Acts 2011, No. 176, § 3: Mar. 4, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Commission on Eye and Vision Care of School Age Children expires at the end of the current state fiscal year; that the commission serves a critical function in ensuring that all Arkansas school children, especially those with eye and vision problems, have an

equal opportunity to access the learning opportunities available through a public school education; that the commission should be made permanent so that it can continue to serve this critical function for Arkansas school children and public school system; and that this act is immediately necessary because any delay in the effective date of this act would work irreparable harm on the ability of the commission to carry out its responsibilities in service to Arkansas's public school system. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

SUBCHAPTER 19 — PUBLIC SCHOOL CHOICE ACT OF 2013

SECTION.

6-18-1901. Title — Legislative findings.

6-18-1902. Definitions.

6-18-1903. Public school choice program established.

6-18-1904. General provisions.

SECTION.

6-18-1905. Application for a transfer.

6-18-1906. Limitations.

6-18-1907. Rules — Appeal — Data collection and reporting.

6-18-1908. Effective date.

Effective Dates. Acts 2013, No. 1227, § 7: Apr. 16, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Public School Choice Act of 1989, § 6-18-206, have been found to be unconstitutional by a federal court; that thousands of public school students are currently attending public schools in non-resident school districts under that law; that there is now uncertainty about the viability of those transfers and future transfers; that this act repeals the disputed provisions of that law while preserving the opportunity for public school

choice; and that this act is immediately necessary to resolve the uncertainty in the law before the 2013-2014 school year and preserve existing student transfers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-18-1901. Title — Legislative findings.

(a) This subchapter shall be known and may be cited as the "Public School Choice Act of 2013".

(b) The General Assembly finds that:

(1) The students in Arkansas's public schools and their parents will become more informed about and involved in the public educational system if students and their parents are provided greater freedom to determine the most effective school for meeting their individual educational needs. There is no right school for every student, and permitting students to choose from among different schools with differing assets will increase the likelihood that some at-risk students will stay in school and that other, more motivated students will find their full academic potential;

(2) Giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools because teachers, administrators, and school board members will have added incentive to satisfy the educational needs of the students who reside in the district; and

(3) These benefits of enhanced quality and effectiveness in our public schools justify permitting a student to apply for admission to a school in any school district beyond the school district in which the student resides, provided that the transfer by the student does not conflict with an enforceable judicial decree or court order remedying the effects of past racial segregation in the school district.

History. Acts 2013, No. 1227, § 6.

6-18-1902. Definitions.

As used in this subchapter:

(1) "Nonresident district" means a school district other than a student's resident district;

(2) "Parent" means a student's parent, guardian, or other person having custody or care of the student;

(3) "Resident district" means the school district in which the student resides as determined under § 6-18-202; and

(4) "Transfer student" means a public school student who transfers to a nonresident district through a public school choice option under this subchapter.

History. Acts 2013, No. 1227, § 6.

6-18-1903. Public school choice program established.

(a) A public school choice program is established to enable a student to attend a school in a nonresident district, subject to the limitations under § 6-18-1906.

(b) Each school district shall participate in a public school choice program consistent with this subchapter.

(c) This subchapter does not require a school district to add teachers, staff, or classrooms, or in any way to exceed the requirements and standards established by existing law.

(d)(1) The board of directors of a public school district shall adopt by resolution specific standards for acceptance and rejection of applications under this subchapter.

(2) The standards:

(A) May include without limitation the capacity of a program, class, grade level, or school building;

(B) Shall include a statement that priority will be given to an applicant who has a sibling or stepsibling who:

(i) Resides in the same household; and

(ii) Is already enrolled in the nonresident district by choice; and

(C) Shall not include an applicant's:

(i) Academic achievement;

(ii) Athletic or other extracurricular ability;

(iii) English proficiency level; or

(iv) Previous disciplinary proceedings, except that an expulsion from another district may be included under § 6-18-510.

(3) A school district receiving transfers under this act shall not discriminate on the basis of gender, national origin, race, ethnicity, religion, or disability.

(e) A nonresident district shall:

(1) Accept credits toward graduation that were awarded by another district; and

(2) Award a diploma to a nonresident student if the student meets the nonresident district's graduation requirements.

(f) The superintendent of a school district shall cause public announcements to be made over the broadcast media and either in the print media or on the Internet to inform parents of students in adjoining districts of the:

(1) Availability of the program;

- (2) Application deadline; and
- (3) Requirements and procedure for nonresident students to participate in the program.

History. Acts 2013, No. 1227, § 6.

6-18-1904. General provisions.

(a) The transfer of a student under the Arkansas Public School Choice Act of 1989, § 6-18-206 [repealed], is not voided by this subchapter and shall be treated as a transfer under this subchapter.

(b)(1) A student may accept only one (1) school choice transfer per school year.

(2)(A) A student who accepts a public school choice transfer may return to his or her resident district during the school year.

(B) If a transferred student returns to his or her resident district, the student's transfer is voided, and the student shall reapply if the student seeks a future school choice transfer.

(c)(1) A transfer student attending a nonresident school under this subchapter may complete all remaining school years at the nonresident district.

(2) A present or future sibling of a student who continues enrollment in the nonresident district under this subsection may enroll in or continue enrollment in the nonresident district until the sibling of the transfer student completes his or her secondary education, if the district has the capacity to accept the sibling without adding teachers, staff, or classrooms or exceeding the regulations and standards established by law.

(d)(1) The transfer student or the transfer student's parent is responsible for the transportation of the transfer student to and from the school in the nonresident district where the transfer student is enrolled.

(2) The nonresident district may enter into a written agreement with the student, the student's parent, or the resident district to provide the transportation.

(3) The State Board of Education may resolve disputes concerning transportation arising under this subsection.

(e) For purposes of determining a school district's state aid, a transfer student is counted as a part of the average daily membership of the nonresident district where the transfer student is enrolled.

History. Acts 2013, No. 1227, § 6.

6-18-1905. Application for a transfer.

(a) If a student seeks to attend a school in a nonresident district, the student's parent shall submit an application:

- (1) To the nonresident district with a copy to the resident district;
- (2) On a form approved by the Department of Education; and
- (3) Postmarked no later than June 1 of the year in which the student seeks to begin the fall semester at the nonresident district.

(b)(1) By August 1 of the school year in which the student seeks to enroll in a nonresident district under this subchapter, the superintendent of the nonresident district shall notify the parent and the resident district in writing as to whether the student's application has been accepted or rejected.

(2) If the application is rejected, the superintendent of the nonresident district shall state in the notification letter the reason for rejection.

(3) If the application is accepted, the superintendent of the nonresident district shall state in the notification letter:

(A) A reasonable deadline by which the student shall enroll in the nonresident district and after which the acceptance notification is null; and

(B) Instructions for the renewal procedures established by the nonresident district.

History. Acts 2013, No. 1227, § 6.

6-18-1906. Limitations.

(a) If the provisions of this subchapter conflict with a provision of an enforceable desegregation court order or a district's court-approved desegregation plan regarding the effects of past racial segregation in student assignment, the provisions of the order or plan shall govern.

(b)(1) A school district annually may declare an exemption under this section if the school district is subject to the desegregation order or mandate of a federal court or agency remedying the effects of past racial segregation.

(2)(A) An exemption declared by a board of directors under this subsection is irrevocable for one (1) year from the date the school district notifies the Department of Education of the declaration of exemption.

(B) After each year of exemption, the board of directors may elect to participate in public school choice under this section if the school district's participation does not conflict with the school district's federal court-ordered desegregation program.

(3) A school district shall notify the department by April 1 if in the next school year the school district intends to:

(A) Declare an exemption under this section; or

(B) Resume participation after a period of exemption.

(c)(1)(A) There is established a numerical net maximum limit on school choice transfers each school year from a school district, less any school choice transfers into the school district, under this section of not more than three percent (3%) of the school district's three-quarter average daily membership for the immediately preceding school year.

(B) For the purpose of determining the percentage of school choice transfers under this subsection, siblings who are counted in the numerator as transfer students shall count as one (1) student, and

siblings who are counted in the denominator as part of the average daily membership shall count as one (1) student.

(2) Annually by June 1, the Department of Education shall report to each school district the net maximum number of school choice transfers for the current school year.

(3) If a student is unable to transfer due to the limits under this subsection, the resident district shall give the student priority for a transfer in the following year in the order that the resident district receives notices of applications under § 6-18-1905, as evidenced by a notation made by the district on the applications indicating date and time of receipt.

History. Acts 2013, No. 1227, § 6.

6-18-1907. Rules — Appeal — Data collection and reporting.

(a) The State Board of Education may promulgate rules to implement this subchapter.

(b)(1) A student whose application for a transfer under § 6-18-1905 is rejected by the nonresident district may request a hearing before the state board to reconsider the transfer.

(2)(A) A request for a hearing before the state board shall be in writing and shall be postmarked no later than ten (10) days after the student or the student's parent receives a notice of rejection of the application under § 6-18-1905.

(B) As part of the review process, the parent may submit supporting documentation that the transfer would be in the best educational, social, or psychological interest of the student.

(3) If the state board overturns the determination of the nonresident district on appeal, the state board shall notify the parent, the nonresident district, and the resident district of the basis for the state board's decision.

(c)(1) The department shall collect data from school districts on the number of applications for student transfers under this section and study the effects of school choice transfers under this subchapter, including without limitation the net maximum number of transfers and exemptions, on both resident and nonresident districts for up to two (2) years to determine if a racially segregative impact has occurred to any school district.

(2) Annually by October 1, the department shall report its findings from the study of the data under this subsection to the Senate Committee on Education and the House Committee on Education.

History. Acts 2013, No. 1227, § 6.

6-18-1908. Effective date.

The provisions of this subchapter shall remain in effect until July 1, 2015.

History. Acts 2013, No. 1227, § 6.

CHAPTER 19

TRANSPORTATION

SECTION.

- 6-19-101. Regulations and standards generally.
- 6-19-102. Authority to transport students — Vehicles and operators.
- 6-19-105. [Repealed.]
- 6-19-108. Bus drivers — Certification.
- 6-19-110. Bus drivers — Loading and discharging pupils.
- 6-19-111. Bus regulations — Design and operation.
- 6-19-115. Bus permit numbers.
- 6-19-117. School bus safety equipment.

SECTION.

- 6-19-119. School bus passengers required to be seated.
- 6-19-123. [Repealed.]
- 6-19-124. Mobile Learning Technology Pilot Program.
- 6-19-125. Safety equipment grant pilot program.
- 6-19-126. Notice on school buses.
- 6-19-127. Parental monitors on school buses.
- 6-19-128. Compressed Natural Gas School Bus Pilot Program.

6-19-101. Regulations and standards generally.

The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules and standards governing the school transportation program in school districts that promote and provide a safe, efficient, and economical system of pupil transportation.

History. Acts 1943, No. 156, § 1; 1945, No. 31, § 1; 1947, No. 420, § 1; A.S.A. 1947, § 80-1810; Acts 2009, No. 1473, § 4.

A.C.R.C. Notes. Acts 2013, No. 1288, § 1, provided:

“(a) The General Assembly finds that:

“(1) It is the duty of the State of Arkansas to provide a general, suitable, and efficient system of free public schools to the children of the state under Arkansas Constitution Article 14, § 1;

“(2) The General Assembly is obligated to ensure the provision of an adequate and equitable system of education;

“(3) Some Arkansas public school students, including some prekindergarten students, travel two (2) hours or more each way to and from school on a school bus;

“(4) Research has shown that lengthy student transportation times:

“(A) Impact the physical, emotional, and mental well-being of students;

“(B) Affect achievement levels;

“(C) Reduce student time with parents at home;

“(D) Limit opportunities to participate in after-school programs, extracurricular activities, and athletics; and

“(E) May be linked to increased incidences of childhood asthma from exposure to bus fumes; and

“(5) Student transportation times should be limited in a cost-efficient manner; and

“(6) A study of student transportation times in Arkansas school districts should be conducted to determine the current costs related to school bus route times and of the costs related to proposed state maximums for student transportation time.

“(b)(1) By July 1, 2014, all school districts shall report to the Division of Public School Academic Facilities and Transportation in the manner prescribed by the division:

“(A) For the school year 2013-2014, the following data for each regularly scheduled bus route to transport students to and from school:

“(i) Number of school buses;

“(ii) Type or size of school bus;

“(iii) Linear route miles;

“(iv) Number of students transported;

“(v) The time of day each bus route begins; and

“(vi) The longest period of time traveled one-way for a student on each route;

“(vii) The average bus driver’s salary for the school district; and

“(viii) The average monthly payment for a bus financed over a ten-year period; and

“(B) The changes required and the cost of the changes, if any, to implement the following maximum amount of time to transport a student to or from school:

“(i) In the 2014-2015 school year, ninety (90) minutes;

“(ii) In the 2015-2016 school year, eighty (80) minutes;

“(iii) In the 2016-2017 school year, seventy (70) minutes;

“(iv) In the 2017-2018 school year, sixty (60) minutes; and

“(v) In the 2018-2019 school year, fifty (50) minutes.

“(2) Each school district is encouraged to provide additional comments or information concerning the feasibility of implementing the maximum route times.

“(c)(1) The division shall make the information received from school districts under this act available to the House Committee on Education and the Senate Committee on Education through the Bureau of Legislative Research.

“(2) The bureau, with the cooperation of the division, shall prepare and present to the House Committee on Education and the Senate Committee on Education a report on the information and data collected under this act for consideration in the 2014 adequacy study.”

Amendments. The 2009 amendment rewrote the section.

6-19-102. Authority to transport students — Vehicles and operators.

(a) The board of directors of each school district in the state is authorized to purchase vehicles and otherwise provide means for transporting pupils to and from school, when necessary.

(b) To this end it may hire or purchase such school buses or other vehicles and hire persons to operate them, or make such other arrangements as it may deem best, affording safe and convenient transportation to the pupils, and the board of directors may pay for all such property or services out of the funds of the district.

(c) Any contract with any member of the school district board of directors for the transportation of children or to drive a bus shall be null and void.

(d) A bus or other vehicle used in transporting pupils in one (1) district shall not be used to transport pupils in another district without the consent of the Department of Education, except as specifically allowed by law.

(e) The buses shall be of such specifications as may be prescribed by uniform rules of the Commission for Arkansas Public School Academic Facilities and Transportation.

History. Acts 1931, No. 169, § 102; Pope’s Dig., § 11545; A.S.A. 1947, § 80-1801; Acts 1999, No. 1078, § 75; 2009, No. 1473, § 5; 2013, No. 420, § 1.

Amendments. The 2009 amendment rewrote (e).

The 2013 amendment added “except as specifically allowed by law” at the end of (d).

6-19-105. [Repealed.]

Publisher's Notes. This section, concerning bus drivers — liability, was repealed by Acts 2011, No. 981, § 10, after having been repealed by implication upon the enactment of §§ 21-9-301, 21-9-303,

and 6-17-1113, as stated in *Doe v. Baum*, 348 Ark. 259 (2002). The section was derived from Acts 1943, No. 156, § 2; A.S.A. 1947, § 80-1811.

6-19-108. Bus drivers — Certification.

(a)(1) An applicant seeking employment as a driver or an operator of a school bus, either privately or publicly owned, is required to take and pass a series of tests as prescribed by the Department of Arkansas State Police under § 27-23-108 and the Division of Public School Academic Facilities and Transportation to determine the physical fitness and driving ability to serve as a school bus driver.

(2) The tests shall include:

(A) A physical examination given by a licensed physician or advanced practice nurse for school bus drivers, as required by the division;

(B) Other requirements as may be prescribed by rules issued jointly by the department and the division for qualifications and fitness of school bus drivers; and

(C) A successfully completed standard bus driver training and preservice behind-the-wheel training program as prescribed by the division.

(b) Upon successful completion and documentation of training listed in subdivision (a)(2)(C) of this section, a certificate, valid for one (1) year, shall be issued by the division.

(c)(1) A school bus driver shall not be employed as an operator of a school bus to transport children to and from school or school-sponsored activities unless he or she has satisfactorily completed the in-service training required in subsection (d) of this section and possesses a current valid certificate therefor.

(2) The certificate shall be required in addition to a commercial driver's license and any additional qualifications required by the school district board of directors.

(d) A school bus driver who seeks a renewal of his or her bus driver certificate shall provide proof that he or she has satisfactorily:

(1) Passed a physical examination given by a licensed physician or advanced practice nurse within the previous two (2) years; and

(2) Completed in-service training for school bus drivers as prescribed by the division.

(e) A school district board of directors may provide a substitute driver to operate a school bus on a temporary basis without a certificate until the next regularly scheduled school bus driver's examination is held in the locality if:

(1) A qualified school bus driver is not available to operate a school bus due to death, resignation, disability, illness, or other cause; and

(2) The school district board of directors is not able to obtain a qualified bus driver with a certificate.

(f) Extracurricular trips shall be made by certified drivers only.

(g) A person who violates the provisions of this section is guilty of a Class A misdemeanor.

History. Acts 1963, No. 191, §§ 1-4, 6; 1965, No. 449, § 1; 1985, No. 757, §§ 3, 4; A.S.A. 1947, §§ 80-1821 — 80-1825; Acts 2005, No. 1327, §§ 4, 5; 2005, No. 1994, § 196; 2009, No. 1473, § 6.

Amendments. The 2009 amendment rewrote the section.

6-19-110. Bus drivers — Loading and discharging pupils.

(a) As used in this section:

(1) “Motor vehicle” means all vehicles, all movable engines, or machines that are operated or propelled by motor vehicle fuel and that are operated and used for travel on public roads and highways; and

(2)(A) “School bus” means a motor vehicle designed to carry ten (10) or more passengers that is:

(i) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or

(ii) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities.

(B) A motor vehicle designed to carry more than twenty-five (25) passengers is exempt from this section if the motor vehicle is:

(i) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-sponsored activities but not used to transport students on any scheduled school bus route; or

(ii) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities.

(b) The purpose of this section is to improve the safety of children being loaded and unloaded as passengers on a school bus.

(c)(1) The superintendent and director of transportation of each school district, in consultation with the appropriate law enforcement agency and appropriate prosecuting authority, shall develop a school bus safety plan designed to ensure the safety of children being loaded onto or unloaded from school buses.

(2) The school bus safety plan shall include provisions to:

(A) Reduce the occurrence of a motor vehicle passing a stopped school bus that is loading or unloading students; and

(B) Improve the likelihood that the operator of a motor vehicle who violates § 27-51-1004 or § 27-51-1005 will be prosecuted by assisting bus drivers to learn methods of identifying characteristics of a motor vehicle and its operator who violate § 27-51-1004 or § 27-51-1005 to law enforcement officers.

(d)(1) The driver of a school bus shall load and unload the passengers of the bus at the extreme right side of the paved or improved portion of the road or the highway and at the right curbing when the curbing is maintained on the road or the highway.

(2) A driver of a school bus who fails to carry out the provisions of this subsection is guilty of a Class C misdemeanor.

(e)(1) A driver of a school bus who observes an operator of a motor vehicle violating § 27-51-1004 or § 27-51-1005 shall report the license plate number, issuing state if different than Arkansas, and a brief description of the vehicle to the superintendent within two (2) hours after the end of the driver's shift for that period of the day.

(2) Within forty-eight (48) hours of the observation, the superintendent shall provide the information to the appropriate law enforcement agency or appropriate prosecuting authority with jurisdiction over the incident.

(3) The appropriate law enforcement agency or appropriate prosecuting authority with jurisdiction over the incident who is provided a report under this section shall provide written notice to the superintendent regarding the outcome of the report.

(4) The superintendent shall provide information regarding the outcome of the report to the driver of the school bus who initiated the report.

(f) A person who observes an operator of a motor vehicle violating § 27-51-1004 or § 27-51-1005 may report the incident to the appropriate law enforcement agency or appropriate prosecuting authority with jurisdiction over the incident.

History. Acts 1931, No. 132, §§ 1, 3, 4; Pope's Dig., §§ 3623, 3625, 3626; A.S.A. 1947, §§ 80-1813 — 80-1815; Acts 2005, No. 1825, § 1; 2005, No. 1994, § 242; 2007, No. 718, §§ 1, 2; 2007, No. 999, § 1; 2009, No. 1206, § 1; 2011, No. 981, § 11; 2013, No. 420, § 2.

Amendments. The 2009 amendment deleted former (a) and (d), inserted present (b) through (d), and redesignated the remaining subsections accordingly; sub-

stituted "appropriate law enforcement agency or appropriate prosecuting authority with jurisdiction over the incident" for "local prosecuting attorney" or similar language in (e)(2), (e)(3), and (f); and made related and minor stylistic changes.

The 2011 amendment rewrote (c)(2)(B).

The 2013 amendment substituted "ten (10) or more passengers that is" for "more than ten (10) passengers" in the introductory language of (a)(2)(A).

6-19-111. Bus regulations — Design and operation.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall adopt and enforce regulations to govern the design and operation of all school buses used for the transportation of school children when the buses are owned and operated by a school district or privately owned and operated under contract with a school district in this state.

(b) Such regulations shall by reference be made a part of any contract with a school district.

(c) Every school district, its officers and employees, and every person employed under contract by a school district shall be subject to the regulations.

(d) Any officer or employee of any school district who violates any of the regulations or fails to include an obligation to comply with the regulations in any contract executed by him on behalf of a school district shall be guilty of misconduct and subject to removal from office or employment.

(e) Any person operating a school bus under contract with a school district who fails to comply with any such regulations shall be guilty of breach of contract, and the contract shall be cancelled after notice by the responsible officers of the school district.

History. Acts 1937, No. 300, § 102; Pope's Dig., § 6759; A.S.A. 1947, § 80-1809; Acts 2013, No. 420, § 3. **Amendments.** The 2013 amendment rewrote (a).

6-19-115. Bus permit numbers.

(a)(1) The Commission for Arkansas Public School Academic Facilities and Transportation shall establish a system of permit numbers to be used in identifying school buses owned or operated by or in behalf of school districts in this state.

(2) The system of permit numbers shall assign an identifying prefix number to each school district with provisions for consecutive numbers thereafter for buses of the district.

(b) Each school district in this state shall be notified of the permit number assigned the school district under this section and shall be furnished instructions for identifying all school buses owned or operated by or in behalf of the school district.

(c)(1) The permit number assigned each school district and the school district name shall be painted in letters not less than six inches (6") high on both sides and on the rear of all school buses owned by the district or used in behalf of the district.

(2) Permit numbers shall be painted on the buses in compliance with the rules promulgated by the commission.

(d) No school district in this state shall operate a school bus nor shall any school bus be operated for or in behalf of a school district unless the school district name and permit number has been painted on the bus in compliance with this section.

(e) A school district failing to comply with this section shall be penalized by the withholding of all transportation aid due the district from the state until the school district is in compliance with this section.

History. Acts 1961, No. 243, §§ 1-3; A.S.A. 1947, §§ 80-1818 — 80-1820; Acts 2009, No. 1473, § 7. **Amendments.** The 2009 amendment rewrote the section.

6-19-117. School bus safety equipment.

(a) As used in this section, “school bus” means:

(1) A motor vehicle designed to carry ten (10) or more passengers that is:

(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or

(B) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities; and

(2) A motor vehicle designed to carry more than twenty-five (25) passengers is exempt from this section if the motor vehicle is:

(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-sponsored activities but not used to transport students on any scheduled school bus route; or

(B) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities.

(b)(1) Any new school bus whose function involves the loading or discharging of students as passengers shall be equipped with a flashing white strobe light in order to provide greater visibility to drivers in approaching vehicles.

(2) The strobe light shall be in addition to those flasher lights required under § 27-51-1002.

(c) Any new school bus whose function involves the loading or discharging of students as passengers on a regular route shall be equipped with an electric, air, or hydraulic-operated crossing gate in order to prevent a student from crossing in front of the bus in such a way that the school bus driver is unlikely to see him or her.

(d) On and after July 1, 1997, all other school buses shall be retrofitted with a flashing white strobe light and an electric, air, or hydraulic-operated crossing gate for purposes as described in this section.

(e) No later than July 1 of each year, the superintendent of each local school district shall certify to the Division of Public School Academic Facilities and Transportation that the district is in compliance with the provisions of this section.

(f) The Director of the Division of Public School Academic Facilities and Transportation shall cause to be publicized the third week of October as School Bus Safety Week.

History. Acts 1995, No. 805, §§ 1-3; 1997, No. 1302, § 3; 2005, No. 1327, § 7; 2007, No. 999, § 2; 2013, No. 420, § 4.

Amendments. The 2013 amendment

substituted “ten (10) or more passengers that is” for “more than ten (10) passengers” in the introductory language of (a)(1).

6-19-119. School bus passengers required to be seated.

(a) As used in this section, “school bus” means:

(1) A motor vehicle designed to carry ten (10) or more passengers that is:

(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school or school-sponsored activities; or

(B) Privately owned and operated for compensation for the transportation of students to or from school or school-sponsored activities; and

(2) A motor vehicle designed to carry more than twenty-five (25) passengers is exempt from this section if the motor vehicle is:

(A) Owned by a public or a governmental agency or a private school and operated for the transportation of students to or from school-sponsored activities but not used to transport students on any scheduled school bus route; or

(B) Privately owned and operated for compensation under contract to a school district and used for the transportation of students to or from school-sponsored activities.

(b) A school bus driver shall not operate the school bus until every passenger is seated.

(c)(1) The superintendent of each public school in this state is responsible for ensuring that no school bus is scheduled to transport more students than can be reasonably seated in the school bus.

(2) Any superintendent who knowingly violates subdivision (c)(1) of this section shall be guilty of a violation and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100).

History. Acts 2001, No. 1744, § 1; 2005, No. 1994, § 67; 2007, No. 999, § 3; 2013, No. 420, § 5.

Amendments. The 2013 amendment

substituted “ten (10) or more passengers that is” for “more than ten (10) passengers” in the introductory language of (a)(1).

6-19-123. [Repealed.]

Publisher’s Notes. This section, concerning a transportation efficiency study, was repealed by Acts 2011, No. 1006, § 1.

The section was derived from Acts 2007, No. 1604, § 1.

6-19-124. Mobile Learning Technology Pilot Program.

(a) The General Assembly finds that:

(1) In rural areas of the state, public school students may spend hours of unproductive time on the school bus being transported to and from school;

(2) The state has a critical need to increase its workforce in the fields of science, technology, engineering, and mathematics for national and global economic competitiveness;

(3) Long, unproductive bus commutes are transformed into productive learning environments in the fields of mathematics and science through the use of mobile learning technology and the accompanying personalized learning experiences; and

(4) A statewide pilot program using mobile learning technology will develop untapped talent for the science, technology, engineering, and mathematics workforce.

(b)(1) The Mobile Learning Technology Pilot Program is created as a three-year pilot program to provide the mobile learning technology under this section to a total of up to twenty-five (25) public school districts.

(2) Each congressional district in the state may have up to five (5) public school districts participating in the pilot program.

(c) The Department of Education shall begin the pilot program with the 2010-2011 school year and continue the pilot program through the end of the 2012-2013 school year.

(d)(1) Each public school district participating in the pilot program shall equip up to three (3) school buses with wireless Internet service and purchase or obtain the following technology:

(A) Fifteen (15) laptop computers;

(B) Forty (40) portable devices for storing video files;

(C) Two (2) sets of media screens; and

(D) Math and science software for use with the laptop computers and video portable devices for storing video files.

(2) The public school district may use foundation funding provided for technology or other funding sources for purchases made under this subsection.

(e) The pilot program also shall provide:

(1) For each public school district participating in the pilot program, a community classroom teacher who is available for student questions and meets with pilot students weekly in a community classroom environment;

(2) Partnerships with institutions of higher education, the school district community, and corporate entities that will expose the pilot students to careers and professionals in the fields of science, technology, engineering, and mathematics;

(3) Measurements of specified outcomes, including without limitation:

(A) The number and types of courses completed by pilot students;

(B) The number and types of Advanced Placement courses completed by the pilot students and the Advanced Placement examination scores; and

(C) The results of Arkansas benchmark assessments for the pilot students;

(4) A comparison of the state benchmark assessments in pilot and nonpilot public school districts; and

(5) A survey of the pilot students' interests in careers and courses of study in science, technology, engineering, and mathematics fields.

(f) As funds are appropriated and available, the department may hire consultants or experts with the knowledge of and appropriate experience with mobile learning technology for use on school buses as well as other qualifications established by the department.

(g)(1) At the end of the three-year period, the department or its consultants or experts shall prepare an evaluation of the pilot program and report on the evaluation to the House Committee on Education and to the Senate Committee on Education.

(2) Consultants or experts hired by the department shall be available to answer questions or provide information as requested by the House Committee on Education and the Senate Committee on Education.

History. Acts 2009, No. 827, § 1.

6-19-125. Safety equipment grant pilot program.

(a) As used in this section:

(1) “Electronic warning device” means a nine-inch by twenty-four-inch (9” x 24”) electronic driver alert sign that uses a light-emitting diode (LED) screen and is to be mounted between the two (2) windows of the rear emergency exit door on a Type C bus or immediately below the rear emergency exit window on a Type D bus;

(2) “High incident route” means a school bus route that has been identified by the school district or the Division of Public School Academic Facilities and Transportation as having a history of repeated and verified incidents of operators of motor vehicles illegally passing the school bus during the loading or unloading of passengers on the school bus route in violation of § 27-51-1004; and

(3)(A) “Video recording device” means a device that includes at least one (1) video camera and a data recording device that is installed on a school bus to capture video or digital images of a violation of § 27-51-1004.

(B) A video recording device that is issued under this section shall have specifications and features that allow it to capture video or digital images of at least two (2) of the following:

- (i) The motor vehicle;
- (ii) The operator of the motor vehicle; or
- (iii) The license plate on the motor vehicle.

(b) The division shall create a school bus safety equipment grant pilot program, subject to the appropriation and availability of funding.

(c) The goal of the school bus safety equipment grant pilot program is to provide school districts with video recording devices or other electronic warning devices for school buses that travel on high incident routes.

(d)(1) A school district may apply to the division for a grant for a video recording device or electronic warning device for the installation and use on the school district’s school buses.

(2) The division shall award a grant of equipment to a school district to improve the safety of school bus transportation to the school district applicants that are most in need as determined by the following factors:

- (A) The number of high incident routes;
- (B) The number of school bus routes;
- (C) The type of roads;
- (D) The number of students transported on school buses; and
- (E) The size of the school district.

(e) The grant of equipment shall be the video recording device or electronic warning device purchased by the division and does not include installation costs.

(f) The school district shall certify to the division within forty-five (45) days after receiving the equipment that the equipment was installed according to the division's specifications on a school bus that travels on a high incident route.

(g) The division may promulgate rules for the implementation and administration of this section.

History. Acts 2009, No. 1207, § 1.

6-19-126. Notice on school buses.

(a) If a school bus is not equipped with an electronic warning device as defined under § 6-19-125, a school district may have printed or otherwise displayed on the exterior of a school bus between the two (2) windows of the rear emergency exit door on a Type C bus or immediately below the rear emergency exit window on a Type D bus the following notification:

"ARKANSAS LAW: STOP WHEN RED LIGHTS ARE FLASHING".

(b) A school bus that is purchased on or after January 1, 2011, shall be equipped with either:

(1) A notice printed or otherwise displayed as provided under subsection (a) of this section; or

(2) An electronic warning device as defined under § 6-19-125.

History. Acts 2009, No. 1207, § 2; 2011, No. 1006, § 2. for "IT IS A VIOLATION OF ARKANSAS

Amendments. The 2011 amendment substituted "ARKANSAS LAW: STOP WHEN RED LIGHTS ARE FLASHING" ANY DIRECTION WHEN IT IS STOPPED TO LOAD OR UNLOAD A CHILD" in (a). LAW TO PASS A SCHOOL BUS FROM

6-19-127. Parental monitors on school buses.

(a) The purpose of this section is to protect children from abusive behavior while riding a school bus.

(b) A school district board of directors may create and implement a program to authorize a parent of a child enrolled in the school district to act as a monitor in a school bus.

(c) The Commission for Arkansas Public School Academic Facilities and Transportation shall adopt rules to implement this section.

(d) A parental monitor under this section is a qualified volunteer under the Arkansas Volunteer Immunity Act, § 16-6-101 et seq.

History. Acts 2011, No. 984, § 1.

6-19-128. Compressed Natural Gas School Bus Pilot Program.

(a) As used in this section:

(1) "Compressed natural gas" means a fossil fuel substitute for gasoline, diesel fuel, propane, or liquid propane gas that is:

(A) Composed primarily of methane; and

(B) Compressed to less than one percent (1%) of the volume it occupies at standard atmospheric pressure;

(2) "Compressed natural gas school bus" means a school bus powered by compressed natural gas that is not owned by a school district before its participation in the Compressed Natural Gas School Bus Pilot Program; and

(3) "Qualified applicant" means a school district that applies to the Compressed Natural Gas School Bus Pilot Program and that meets the qualifications under subsection (c) of this section.

(b)(1) The Compressed Natural Gas School Bus Pilot Program is created for the 2014 and 2015 fiscal years to provide compressed natural gas school buses to four (4) public school districts.

(2) Each congressional district in the state may have one (1) public school district participating in the program.

(3) Each school district in the state may apply to become a participating school district in the program.

(4) If more than one (1) school district from a congressional district applies to the program, the participating district will be selected by random drawing from all qualified applicants submitted for a congressional district.

(5) The Division of Public School Academic Facilities and Transportation shall run the program for its term.

(c)(1)(A) Each public school district participating in the program shall be provided ten (10) compressed natural gas school buses.

(B) The school buses provided under the program shall be purchased by the division based upon specifications and requirements determined by the division.

(2) To qualify for the grant under subdivision (c)(1) of this section, each public school district seeking to participate in the program shall submit an application in the form and manner established by the division setting forth that the applicant:

(A)(i) Agrees to purchase ten (10) compressed natural gas school buses in addition to those provided under subdivision (c)(1) of this section before June 30, 2015.

(ii) The compressed natural gas school buses to be purchased by the participating district shall meet or exceed:

(a) The specifications and requirements of the compressed natural gas school buses provided by the division; and

(b) Applicable provisions of the rules of the Commission for Arkansas Public School Academic Facilities and Transportation, as they existed on January 1, 2013;

(B) Either:

(i) Has reasonable access to refueling options to allow for efficient use of the compressed natural gas school buses; or

(ii) Agrees, if the proposal calls for the construction of a new refueling station, to provide access to the refueling station to the general public; and

(C) Has sufficient resources to purchase, operate, and maintain the compressed natural gas school buses under this section, including information demonstrating that purchase, operation, and maintenance will not cause a financial hardship on the applicant.

(3) In addition to the requirements for qualifying applicants under subdivision (c)(2) of this section, the division is authorized to develop and require compliance with additional qualifications it deems necessary.

(d) The division may promulgate rules to administer the program.

History. Acts 2013, No. 1195, § 1.

CHAPTER 20

FINANCES

SUBCHAPTER.

4. DISTRICT FINANCES.
5. FUNDS FOR CHILDREN WITH DISABILITIES AND FOSTER CHILDREN.
6. LOCAL SCHOOL DISTRICT ISOLATED FUNDING.
7. SCHOOL LUNCH PROGRAM.
8. REVOLVING LOAN PROGRAM — GENERAL PROVISIONS.
11. REVOLVING LOAN FUND — EMERGENCY REVOLVING LOAN FUND ACCOUNT. [REPEALED.]
12. DISTRICT BONDS.
14. STATE AID FOR CONSTRUCTION.
19. ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM.
20. TRACKING AND ACCOUNTING OF INTERSCHOOL ATHLETIC PROGRAM FUNDS.
21. TRACKING AND ACCOUNTING OF INTERSCHOOL SCHOLASTIC ACTIVITY FUNDS.
22. ARKANSAS EDUCATIONAL FINANCIAL ACCOUNTING AND REPORTING ACT OF 2004.
23. PUBLIC SCHOOL FUNDING ACT OF 2003.
25. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT.

A.C.R.C. Notes. Acts 2011, No. 1074, § 22, provided: “(A) Amendment 79 of the Constitution of the State of Arkansas provides that school district millage must be equal for all classes of property and several school districts now have unequalized millage on real and personal property. The Arkansas Department of Education and the Assessment Coordination Department are hereby authorized to identify those school districts which are affected by the

Amendment 79 provision to equalize millage and calculate the loss in revenues due to the equalization of the millage. Loss in revenue shall be defined as the difference between the collectable taxes calculated by multiplying the current assessment times the pre-equalized mills and the current assessment times post-equalized mills.

“(B) School districts shall receive funding authorized herein equal to the loss in

revenues as calculated by the Arkansas Department of Education and the Assessment Coordination Department.

“(C) Funding received by school districts pursuant to this act shall be consid-

ered unrestricted revenues to those districts.

“The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.”

SUBCHAPTER 2 — MANAGEMENT AND APPORTIONMENT OF FUNDS GENERALLY

6-20-212. Desegregation expenses.

A.C.R.C. Notes. Acts 2013, No. 1309, § 13, provided: “DESEGREGATION EXPENSES. (A) For the fiscal year ending June 30, and for each fiscal year thereafter, the Department of Education shall from time to time as needed, certify to the State Treasurer and the Chief Fiscal Officer of the State, the amount of funds disbursed or approved to be disbursed by the Department of Education for desegregation expenses under any “Desegregation Settlement Agreement”. Upon the receipt of such certification, the State

Treasurer, after making those deductions as set out in Arkansas Code 19-5-202(b)(2)(B), shall also deduct from the net general revenues the amount certified and transfer this amount to the Department of Education Public School Fund Account there to be used exclusively for payment of or reimbursement for expenses incurred from the Department of Education Public School Fund Account under any ‘Desegregation Settlement Agreement’.”

6-20-224. Federal turnback funds.

A.C.R.C. Notes. Acts 2013, No. 1310, § 22, provided: “TURNBACK FUNDS. Any Federal Mineral Leasing Funds, Federal Forest Reserve Funds, Federal Flood Control Funds, or any similar turnback funds in the State Treasury for which the eligible county and/or school district cannot

be identified may be transferred to the Department of Education Public School Fund Account and used for any lawful school purpose.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

SUBCHAPTER 4 — DISTRICT FINANCES

SECTION.

6-20-401. Definitions.

6-20-402. Limitation on current indebtedness — Postdated warrants and installment contracts — Liability.

SECTION.

6-20-412. Nonrecurring salary payments.

6-20-415. Consultants.

6-20-416. Desegregation funding.

Effective Dates. Acts 2008 (1st Ex. Sess.), No. 2, § 3: Apr. 2, 2008. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the state’s provision of school systems that are free from the vestiges of racial discrimination is a vital part of providing a general, suitable,

and efficient school system; that children who receive a quality education grow into responsible adults who create positive effects on the culture and economy of this state; that without a diligent pursuit of unitary status by the three (3) Pulaski County school districts, there is no assurance that the school districts are free of

the vestiges of racial discrimination; that the state has enacted legislation to assist the Pulaski County school districts in achieving unitary status in desegregation litigation and provide assurance to the children in those districts that the promise of unitary status will be fulfilled within a reasonable amount of time; that under that legislation, the school districts filed their requests for a court order on unitary status, but the court's docket will not permit a resolution by June 14, 2008, the stated deadline; and that this act is immediately necessary to ensure that the Pulaski County school districts diligently pursue unitary status before the end of 2008 and that the state's provision of school systems that are free from the vestiges of racial discrimination. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 242, § 3, Feb. 26, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state's provision of school systems that are free from the vestiges of racial discrimination is a vital part of providing a general, suitable, and efficient school system; that without a diligent pursuit of unitary status by the three (3) Pulaski County school districts, there is no assurance that the school districts are free of the vestiges of racial discrimination; that the state has enacted legislation to assist the Pulaski County school districts in achieving unitary status in desegregation litigation and provide assurance to the children in those districts that the promise of unitary status will be fulfilled within a reasonable amount of time; that under that legislation, the school districts filed their requests for a federal court order on unitary status, but the federal court system for hearings and appeals in the case did not permit a resolution by December 31, 2008, the stated deadline; and that this act is immediately necessary to ensure that the

Pulaski County school districts diligently pursue unitary status before the end of 2009 in order to ensure that the school systems are free from the vestiges of racial discrimination. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 701, § 6: Mar. 24, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state has paid the Pulaski County School Districts over one billion dollars as required by the Pulaski County Desegregation Case styled Little Rock School District v. Pulaski County Special School District No. 1, et al, No. LR-C-82-866; that the Attorney General and the Department of Education are examining the finances of the Pulaski County school districts to determine how those funds are utilized by the districts; that the accounting required by this act is

an essential part of reaching a fiscally responsible end to the case; that the General Assembly's support for the efforts of the Attorney General and the department should be provided immediately because the continued funding under the existing settlement agreement without proper accounting and State oversight is detrimental to the fiscal integrity of the three school districts and the State, and to the education of the students in the school districts. Therefore, an emergency is de-

clared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-401. Definitions.

As used in this subchapter:

(1) "Current indebtedness" means a debt obligation incurred by a school district for the purpose of paying maintenance or general operation expenses for the fiscal year in which the debt is incurred or for a purpose for which a postdated warrant, installment contract, or lease-purchase agreement may be issued;

(2) "Energy conservation measure" means any improvement, repair, alteration, or betterment of any new building design or any existing building or facility owned or operated by a school district or any equipment, fixture, or furnishing to be added to or used in any building or facility that is designed to reduce energy consumption or operating costs and may include, without limitation, one (1) or more of the following:

(A) Insulation of the building structure or systems within the building;

(B) Storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(C) Automated or computerized energy control systems;

(D) Heating, ventilating, or air conditioning system modifications or replacements;

(E) Replacements or modifications of lighting fixtures to increase the energy efficiency of the lighting system;

(F) Indoor air quality improvements to increase air quality that conform to the applicable state or local building code requirements even in lieu of an increase in energy usage;

(G) Any additional building infrastructure improvements, cost savings, and life safety or other safety or conservation measures that provide long-term operating cost reductions and are in compliance with state and local codes; and

(H) Building operation programs that reduce operating costs;

(3) "Nonrevenue receipts of a school district" means those receipts which either incur an obligation which must be met at some future date or which change the form of an asset from property to cash. Specifically, they consist of the proceeds of a bond sale, payment of losses on an insurance policy, the receipts from the sale of property, etc.; and

(4) "Revenue receipts of a school district" means those receipts that do not result in increasing school indebtedness or in depleting school property. Specifically, revenue receipts of a school district for any fiscal year shall consist of the following funds:

(A) Net cash balance on hand at the beginning of the school fiscal year, July 1;

(B) The remaining net proceeds of local taxes collected in the calendar year in which the school fiscal year started;

(C)(i) For the 2011-2012 school year, the proceeds of the local taxes collected by June 30 in the succeeding calendar year. If the amount collected is less than thirty-six percent (36%) of the proceeds of the local taxes that are not pledged to secure bonded indebtedness, the amount necessary to equal thirty-six percent (36%) may be accrued.

(ii) The percentage under subdivision (4)(C)(i) of this section shall be reduced by four percent (4%) each subsequent school year until it is zero (0), as follows:

(a) Thirty-two percent (32%) in the 2012-2013 school year;

(b) Twenty-eight percent (28%) in the 2013-2014 school year;

(c) Twenty-four percent (24%) in the 2014-2015 school year;

(d) Twenty percent (20%) in the 2015-2016 school year;

(e) Sixteen percent (16%) in the 2016-2017 school year;

(f) Twelve percent (12%) in the 2017-2018 school year;

(g) Eight percent (8%) in the 2018-2019 school year;

(h) Four percent (4%) in the 2019-2020 school year; and

(i) Zero percent (0%) in the 2020-2021 school year.

(iii) Declining balances attributed solely to a school district's compliance with the requirements of subdivision (4)(C)(ii) of this section shall not be considered an indicator of fiscal distress; and

(D) The net proceeds of all other funds accrued or placed to the credit of the district during the fiscal year from regular revenue sources, including without limitation state and federal funding.

History. Acts 1939, No. 194, § 2; 1949, No. 150, § 1; 1958 (2nd Ex. Sess.), No. 3, § 1; A.S.A. 1947, § 80-1002; Acts 1989, No. 105, § 1; 1993, No. 314, § 1; 1997, No. 962, § 1; 1997, No. 1307, § 10; 2005, No. 2156, § 1; 2011, No. 871, § 1.

A.C.R.C. Notes. A portion of subdivi-

sion (4)(C)(ii)(i) was inadvertently omitted from the final version of the act. Section 6-20-401 is set out above to include the omitted language.

Amendments. The 2011 amendment rewrote (4)(B); added (4)(C); and redesignated part of former (4)(B) as (4)(D).

6-20-402. Limitation on current indebtedness — Postdated warrants and installment contracts — Liability.

(a)(1)(A) The amount of obligations incurred by a school district for any school fiscal year shall not be in excess of the revenue receipts of

the district for that year except as provided in this section and in § 6-20-801 et seq.

(B) A school district or public charter school may enter into public-private partnerships whereby the school district or public charter school enters into a lease-purchase agreement for the acquisition or construction of a school building or related facilities built or acquired by the private entities with facilities bonds exempt from federal taxes under 26 U.S.C. § 142(a)(13), as it existed on January 1, 2003, or otherwise exempt under 26 U.S.C. § 103, as it existed on January 1, 2005.

(2) A school district may issue postdated warrants or enter into installment contracts or short-term lease-purchase agreements for the following purposes:

(A) Purchase of school buses;

(B) Payment of premiums of insurance policies on school buildings, facilities, and equipment in instances in which the insurance coverage extends three (3) years or longer;

(C)(i) Purchase of equipment.

(ii) However, purchase of equipment does not include separate equipment service agreements, equipment repair contracts, or extended warranties for the equipment;

(D) Installation or purchase, or both, of energy conservation measures in school facilities;

(E) Construction, repair, and renovation of school facilities;

(F) Purchase of school sites;

(G) Payment on loans secured for settlement resulting from litigation against a school district;

(H) Payment of the district's pro rata part of employing professional appraisers as authorized by laws providing for the appraisal or reappraisal and assessment of property for ad valorem tax purposes; and

(I) The professional development and training of teachers or other programs authorized under the federally recognized qualified zone academy bond program codified at 26 U.S.C. § 1397E.

(3) School districts may issue postdated warrants or enter into installment contracts or lease-purchase agreements in an amount sufficient to accomplish the purposes listed in subdivision (a)(2) of this section and to pay the costs of issuing the postdated warrants or entering into the installment contracts or lease purchase-agreements.

(b)(1)(A) Except as provided in subdivisions (b)(1)(B) and (C) of this section, a postdated warrant, a short-term lease-purchase agreement, or an installment contract must be paid within ten (10) years of the date of issuance of the postdated warrant or the execution of the written lease-purchase agreement or installment contract, as the case may be.

(B)(i) A school district's acquisition of energy conservation measures under § 6-20-405 may be financed by the school district over a twenty-year period after the execution by the school district of the

postdated warrant, lease-purchase agreement, or installment contract.

(ii) However, no financing shall exceed the reasonably expected useful life of the energy facilities or equipment subject to the energy savings contract in favor of either a qualified provider or a third-party financing company designated by a qualified provider.

(C) A long-term lease-purchase agreement allowed under subdivision (a)(1)(B) of this section:

(i) Shall be paid within thirty (30) years of the date of the execution of the written lease-purchase agreement; and

(ii)(a) May contain a provision allowing the school district an option to terminate the agreement at the end of any fiscal year for the school district.

(b)(1) Any long-term lease containing an option to terminate at the end of a fiscal year shall not be included in the calculation of the debt ratio applicable to that school district.

(2) Any long-term lease allowed under subdivision (a)(1)(B) of this section that does not contain an option to terminate at the end of the fiscal year shall be included in the calculation of the debt ratio applicable to that school district.

(iii) All school buildings or related facilities shall comply with the requirements of the Arkansas School Facility Manual in effect at the time the lease became effective.

(D)(i) A school district may sublease a portion of a school building or facility whenever that building or facility is not being used for educational purposes.

(ii) Rent received from a sublease:

(a) Shall be deposited into the school district's general fund; and

(b) May be used for any operational or capital purpose.

(E) Postdated warrants, lease-purchase agreements, and installment contracts must be registered on forms provided or approved by the State Board of Education with the treasurer of the district and the state board.

(2)(A) Each lease-purchase agreement and installment contract must have attached thereto a schedule of the rent or installments to be paid, showing:

(i) The payee and any assignee;

(ii) The school district;

(iii) The purpose of the purchase or payment;

(iv) The due date of each installment; and

(v) The amount of principal and interest of each installment and the fiscal year in which the installment is to be paid.

(B) A copy of each contract and of the schedule of payments shall be filed with the treasurer of the district and with the state board, and when so filed, each installment may be paid as it becomes due.

(3)(A) Except as provided in subdivision (b)(3)(B) of this section, the unpaid principal amount of postdated warrants issued and installment contracts and lease-purchase agreements entered into shall be

a part of the total debt of the district as limited by § 6-20-803 with the district fiscal officer and his or her surety liable for exceeding the limitations.

(B) The unpaid principal amount of postdated warrants, lease-purchase agreements, or installment contracts entered into in connection with a guaranteed energy savings contract under § 6-20-405 shall not be a part of the total debt of the district.

(4) A copy of any guaranteed energy savings contract that is executed in connection with the acquisition, installation, or construction of energy conservation measures under this section shall be filed with the Department of Education.

(5) Payments by a school district pursuant to postdated warrants, installment contracts, and lease-purchase agreements shall be charged against the budget of the school fiscal year in which they become due and shall be paid out of the revenue receipts for that fiscal year.

(6) All warrants issued or installment contracts and lease-purchase agreements entered into in excess of the revenue of a school district for a school fiscal year are null and void except as provided in this section.

(7) It shall be the duty of the school fiscal officer to indicate on each school district warrant or on the schedule of payments attached to a written installment contract or lease-purchase agreement the school year's revenues against which the obligation was incurred and is to be paid. It shall be unlawful for the school fiscal officer to issue a school district warrant or to enter into an installment contract or lease-purchase agreement the installments for which are to be charged against the revenues of a school year if the obligation thereof was incurred in a different school year except as otherwise authorized in this section.

(8) The school fiscal officer may comply with the provisions of this section by indicating on each warrant or schedule of payments attached to any installment contract or lease-purchase agreement the school year's revenues against which each payment is to be charged, or he or she may use a warrant of a distinct color for a particular year and shall advise the county treasurer, if the county treasurer serves as the school district treasurer, in writing of the color of warrant being used for credit against the revenues of a particular year.

(9) The county treasurer, or the district treasurer if the school district has its own treasurer, and his or her surety shall be jointly liable with the school fiscal officer and his or her surety for the payment of any school warrant or payment on a contract or agreement that is charged against the revenues of a school year if the amount thereof is in excess of the revenue receipts of the district for the school year against which the school fiscal officer has indicated the payment is to be charged or if he or she approved the payment with knowledge that the payment is being charged by the school fiscal officer against the revenues of another school year in violation of this section.

(10) It is the purpose and intent of this section to place primary responsibility on the school fiscal officer and his or her surety for

compliance with the provisions of this section and to make the county treasurer, or district treasurer if the school district has its own treasurer, and his or her surety liable for any payment on a warrant, contract, or agreement drawn in violation of this section when the amount of the payment exceeds the revenue receipts of the district for the school year against which it is charged as indicated on the warrant, contract, or agreement or when the county treasurer approves a payment with the knowledge that it is in payment of an obligation of a different school year as prohibited in this section.

(c)(1) A school district may refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts and pay the usual, customary, and reasonable costs of the refinancing by issuing one (1) postdated warrant, lease-purchase agreement, or installment contract if the refinancing:

(A)(i) Results in a net savings to the school district.

(ii) A net savings results if the outstanding principal balance plus the remaining interest payments and any early call penalties is greater than the new principal balance plus the total interest to be paid and the cost of the refinancing of the outstanding postdated warrant, lease-purchase agreement, or installment contract;

(B) Does not extend the term of the postdated warrant, lease-purchase agreement, or installment contract more than five (5) years beyond the term of the existing individual outstanding postdated warrants, lease-purchase agreements, or installment contracts, and if the original term together with any extension does not exceed ten (10) years;

(C) Does not increase the outstanding debt owed by the school district under the existing outstanding postdated warrants, lease-purchase agreements, or installment contracts except to the extent necessary to cover usual, customary, and reasonable costs of issuance of the new refunding postdated warrant, lease-purchase agreement, or installment contract and except to the extent necessary for new financing as authorized by subsection (a) of this section;

(D)(i) Except as allowed under subdivision (c)(1)(D)(ii) of this section, the outstanding postdated warrants, lease-purchase agreements, or installment contracts have not been previously refinanced.

(ii) Any outstanding postdated warrants, lease-purchase agreements, or installment contracts may be refinanced more than one (1) time if:

(a) The school district realizes a savings from the refinancing;

(b) The term of the debt obligation is not extended; and

(c) The refinancing does not increase the total debt obligation of the school district; and

(E) The school district obtains the prior written approval of the department to refinance one (1) or more outstanding postdated warrants, lease-purchase agreements, or installment contracts.

(2) The state board may promulgate rules and regulations as necessary to implement subdivision (c)(1) of this section.

(d)(1) A school district may incur current indebtedness and issue its notes or other evidence thereof as provided in this subsection.

(2) All current indebtedness incurred in a fiscal year shall mature on or before December 31 of the calendar year in which the fiscal year ends.

(3) Current indebtedness is not included in the term "bonded indebtedness" and shall not be considered a part of the total debt of a district as limited by § 6-20-803.

(4) Current indebtedness shall be payable from and may be secured by a pledge of all or any part of the revenue receipts of the issuing district for the fiscal year in which the debt is incurred.

(5) The amount of obligations incurred by a school district for any school fiscal year, including current indebtedness, shall not be in excess of the revenue receipts of the district for that year except as expressly authorized in subsection (a) of this section.

(e)(1)(A)(i) Except as provided in subdivision (e)(1)(B) of this section, as additional security for the payment of any postdated warrant, installment contract, lease-purchase agreement, or current indebtedness of a school district authorized under subdivision (a)(2) of this section, the district may authorize the state board to cure any delinquencies of the school district by withholding state foundation funding due the district.

(ii) Authorization shall be given by the school district at the time that the postdated warrant, installment contract, or lease-purchase agreement is issued or the current indebtedness authorized under subdivision (a)(2) of this section is incurred and shall be given in the manner and in the form that the state board shall prescribe.

(B) A school district may not authorize the state board to cure and the state board shall not cure any delinquencies of the district in contracts or extended warranties on equipment by withholding state foundation funding due the district.

(2)(A) If a school district has authorized withholding of its state foundation funding under subdivision (e)(1)(A) of this section and the school district has failed to pay the payee or paying agent amounts due under a postdated warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section, the payee or paying agent shall be entitled to payment from the school district's withheld state foundation funding if the payee or paying agent:

(i) Obtains a final judgment establishing the payee's or paying agent's right to payment from the school district under a postdated warrant, installment contract, or lease-purchase agreement described in subdivision (a)(2) of this section; and

(ii) Submits a written request for payment of the amount of the unpaid judgment and a certified copy of the final judgment to the Commissioner of Education and the superintendent of the school district.

(B)(i) Except as provided in subdivision (e)(1)(B) of this section, unless the superintendent of the school district certifies in writing to

the commissioner that payment has been made by the district to the payee or the paying agent and the judgment has been paid in full, the commissioner shall withhold from the next distribution to the school district of state foundation funding and remit to the payee or paying agent an amount sufficient to pay the judgment amount.

(ii) If the amount withheld under subdivision (e)(2)(B)(i) of this section is insufficient to pay the judgment in full, the commissioner shall continue withholding subsequent distributions of state foundation funding to the school district until the superintendent certifies to the commissioner that the judgment is paid in full.

(3) In the event that the amount next due to be distributed to the delinquent district is not sufficient to cure the delinquency, the commissioner shall continue to withhold state aid as due and remit it to the payee or paying agent until the payment deficiency has been cured.

(4) If the commissioner is notified that a district is delinquent on two (2) or more obligations for which a district has authorized withholding of state aid to cure a delinquency, the commissioner shall make payment to payees or paying agents in the order of receipt of notices of the delinquencies.

(f) If the state board withholds state aid from a school district under subsection (e) of this section, the school district shall be identified by the department to be a school district in fiscal distress under § 6-20-1906.

(g) Any duties required of any officer of the state pursuant to subsection (e) of this section shall be only ministerial in nature and shall in no way transfer any liability of the debtor to the state or any agency or any officer thereof.

(h) The rate of interest on postdated warrants, installment contracts, lease-purchase agreements, and current indebtedness shall not exceed the maximum interest rate for school bonds as determined under § 6-20-1206.

History. Acts 1939, No. 194, § 3; 1949, No. 150, § 2; 1969, No. 76, § 1; 1977, No. 494, § 1; 1981, No. 550, § 1; 1983, No. 438, § 1; 1985, No. 223, § 1; A.S.A. 1947, § 80-1003; Acts 1989, No. 105, §§ 2, 3; 1991, No. 401, § 15; 1993, No. 314, § 2; 1995, No. 233, § 11; 1997, No. 962, §§ 2, 3; 1997, No. 1265, § 1; 1997, No. 1329, § 2; 2001, No. 1220, §§ 8-10; 2003, No. 840, § 1; 2003, No. 1754, §§ 1, 2; 2003 (2nd Ex. Sess.), No. 58, §§ 1, 2; 2005, No.

1866, § 1; 2005, No. 2005, § 1; 2005, No. 2121, §§ 12, 23; 2005, No. 2156, § 2; 2005, No. 2177, § 1; 2006 (1st Ex. Sess.), No. 22, §§ 1-3; 2006 (1st Ex. Sess.), No. 23, §§ 1-3; 2007, No. 827, §§ 114, 115; 2009, No. 1469, § 9; 2013, No. 1073, § 32.

Amendments. The 2009 amendment rewrote (f).

The 2013 amendment substituted "identified by the department to be" for "classified as" in (f).

6-20-412. Nonrecurring salary payments.

(a) A school district in this state may pay licensed personnel a nonrecurring salary payment from revenues not considered to be recurring sources of revenue.

(b) A nonrecurring salary payment under this section shall not increase the base salary of the recipient for purposes of calculation of future salary requirements.

(c) A nonrecurring salary payment under the provisions of this section shall be divided equally among licensed personnel employed by the school district at the time approved by the board of directors of the school district unless the board of directors and a majority of the licensed personnel agree to a different distribution.

(d) A payment to a targeted educator made in the form of a supplement as an addendum to a contract in fulfilling this section, and § 6-5-307(a) shall not be considered a nonrecurring salary payment under this section.

History. Acts 1989, No. 268, § 1; 2001, No. 1456, § 8; 2009, No. 376, § 38; 2011, No. 989, § 62.

Amendments. The 2009 amendment, in (e), made minor stylistic changes.

The 2011 amendment substituted “licensed” for “certified” in (a); deleted “teacher” preceding “recipient” in (b); in (c), substituted “licensed personnel” for

“certified personnel,” “time approved by the board of directors of the school district” for “time of payment,” and “licensed personnel” for “teachers”; deleted former (d) and redesignated former (e) as present (d); and deleted “and § 6-17-2101 et seq. [repealed]” following “5-307(a)” in present (d).

6-20-415. Consultants.

(a) The Department of Education in consultation with the Attorney General shall hire consultants on the following basis:

(1) The consultants shall be qualified as experts in public school district desegregation;

(2) The purposes for employing the consultants are to determine whether and in what respects any of the three (3) Pulaski County school districts:

(A)(i) Are unitary.

(ii) If a school district has been declared unitary or has been declared unitary in some respects, the consultants shall not examine the school district on those issues; and

(B) Have complied with their respective consent decrees; and

(3) The consultants shall understand and acknowledge in their work and research that their testimony in court may be required.

(b) The department shall not pay the consultant fees or expenses from moneys appropriated and available for the reimbursement of attorney’s fees to the three (3) Pulaski County school districts under § 6-20-416.

(c)(1) The department and the Attorney General also may hire consultants with expertise in the fields of auditing and forensic accounting to provide oversight and management of the three (3) Pulaski County school districts’ finances with an emphasis on desegregation funding.

(2) The consultants hired by the department and the Attorney General shall have full authority to examine any documents and software and shall be allowed full access to any persons necessary to discharge the consultants’ duties as directed by the department and the Attorney General.

(3) In addition to the authority otherwise granted to the State Board of Education and the department by law, the department may require a school district to modify, update, or change the school district's financial oversight or management policies, procedures, or practices in response to the recommendations of the consultants.

(4) A school district that fails to comply with the requirements of the department under this subsection shall be identified by the department as being in fiscal distress and subject to the applicable enforcement provisions as provided by law.

History. Acts 2007, No. 395, § 2; 2009, No. 242, § 1; 2011, No. 701, § 1.

A.C.R.C. Notes. Acts 2013, No. 1310, § 28, provided: "PULASKI COUNTY DESEGREGATION CASE COSTS FUND TRANSFER. The Department of Education shall retain and use any unexpended balance of funds transferred to the Department of Education Fund Account during the 2007-09 biennium for the purpose of providing funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts to comply with the provisions of Arkansas Code §6-20-415 and §6-20-416. These retained funds shall be used exclusively to provide funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts under Arkansas Code §6-20-415 and §6-20-416."

regation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts under Arkansas Code §6-20-415 and §6-20-416.

"No portion of these retained funds shall be expended by the Department of Education without certification by the Commissioner of the Department of Education to the Chief Fiscal Officer of the State and prior approval by the Chief Fiscal Officer of the State."

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Amendments. The 2009 amendment inserted (b); deleted (a)(2), and redesignated the remaining text accordingly.

The 2011 amendment added (c).

6-20-416. Desegregation funding.

(a) The Department of Education and the Attorney General are authorized to seek proper federal court review and determination of the current unitary status of any school district in the case of Little Rock School District v. Pulaski County Special School District No. 1, et al, No. LR-C-82-866.

(b)(1) Upon July 31, 2007, the department and the Attorney General are authorized to seek modification of the current consent decree or enter into a new or an amended consent decree or settlement agreement under this section that allows the State of Arkansas to:

(A) Continue necessary and appropriate payments under a post-unitary agreement to the three (3) Pulaski County school districts for a limited and definite time period not to exceed seven (7) years and for a definite limited sum of payments;

(B) Ensure that the amount of funding provided under the post-unitary agreement is the total maximum obligation of the state and the school districts in the case;

(C) Ensure that the payments required pursuant to the post-unitary agreement are structured so that the total amount of the payments decrease so that no financial obligation remains due or owed by the state at the end of the time period specified in the post-unitary agreement; and

(D) Ensure that the total of any financial obligation created or established for the state in any one (1) year shall not exceed the state's desegregation obligation for the 2008-2009 school year.

(2) The agreement under this subsection may only be a post-unitary agreement, and the school districts shall receive the continued funding only if they are declared unitary. However, the agreement does not have to be post-unitary and may commence upon all school districts having been declared, previously or in the future, unitary in terms of student assignment and student racial balance so long as all other requirements in subdivision (b)(1) of this section are met.

(3) Before any agreement is entered into pursuant to this subsection, the proposed post-unitary agreement shall be submitted to the Legislative Council for review and approval.

(c)(1) The department in consultation with the Attorney General shall have the authority to enter into agreements with the three (3) Pulaski County school districts to reimburse the school districts for legal fees incurred for seeking unitary status or partial unitary status.

(2) To be eligible for possible reimbursement under this subsection for legal fees incurred, motions seeking unitary status or partial unitary status shall be filed no later than October 30, 2007, and the school districts must be declared unitary or at least partially unitary by the federal district court no later than December 31, 2012.

(3) Under no circumstances shall any one (1) school district be entitled to reimbursement under this subsection in excess of two hundred fifty thousand dollars (\$250,000).

(4) Before a reimbursement agreement is entered into pursuant to this subsection, the proposed reimbursement agreement shall be submitted to the Legislative Council for review and approval.

(d)(1) By modifying the current consent decree or entering into a new or an amended consent decree or post-unitary agreement, the State Board of Education may create one (1) or more new school districts within Pulaski County if the creation of the new school district or districts does not eliminate the Pulaski County Special School District from existence.

(2) The state board shall seek the federal district court's approval prior to creating a new school district pursuant to this subsection, unless the federal district court's approval is not required because:

(A) The school district or districts involved have been released from the federal district court's supervision; or

(B) The new school district or districts is contemplated only as part of the post-unitary agreement.

(3) Any new school district created in Pulaski County shall receive a pro rata distribution based on its average daily membership of the funding provided under subsection (b) of this section for the school district or districts from which it was created.

(e)(1) A school district receiving state funds under a federal court order or a settlement agreement in desegregation litigation shall categorize and describe the state funds received and any expenditure of

those funds according to the uniform chart of accounts and codes established by the department.

(2) The department shall modify, as necessary, the Arkansas Financial Accounting Handbook or the Arkansas Educational Financial Accounting and Reporting System, or both, to ensure that the uniform chart of accounts and codes is available to accurately monitor:

(A) State funding paid to a school district under the federal court order or settlement agreement; and

(B) All expenditures of that funding.

(3) An error related to the coding and reporting of the state funds that causes a material misstatement of financial information is cause for determining a deficiency under the Department of Education Rules Governing the Arkansas Financial Accounting and Reporting System and Annual Training Requirements.

(f) By September 1 of each year, a school district that receives state funding pursuant to a federal court order or settlement agreement in desegregation litigation shall report to the department, in the form and manner established by the department, the following:

(1) The total amount of state funding received under the federal court order or settlement agreement in the previous school year;

(2) A detailed statement outlining the school district's obligations under the federal court order, settlement agreement, or court-approved remedial plan, including without limitation:

(A) Programs that the school district is required to administer;

(B) Specific goals that the school district is required to reach;

(C) Actions that the school district is required to take or is prohibited from taking;

(D) Problems that the school district is required to remedy;

(E) Overall purposes of the federal court order, settlement agreement, or court-approved remedial plan; and

(F) Any other pertinent information as determined by the department;

(3)(A) An itemized accounting of expenditures of state funds identified under subdivision (f)(1) of this section that were used to comply with the school district's obligations identified under subdivision (f)(2) of this section.

(B) The accounting shall be specific and detailed and include an explanation of how each expenditure was necessary in order to comply with the school district's obligations under the federal court order, settlement agreement, or court-approved remedial plan.

(C) It is not sufficient to provide general statements, such as stating that the funds were used in magnet schools.

(D) The department may determine additional guidelines regarding the necessary level of specificity;

(4) The total amount of all state funds referenced in subdivision (f)(1) of this section that the school district retains; and

(5) A statement that the total amount of funds listed in subdivisions (f)(3) and (4) of this section is equal to the total amount of state funding

received, as reported by the school district under subdivision (f)(1) of this section, or alternatively, an explanation of the discrepancy.

(g)(1) A school district not utilizing the Arkansas Public School Computer Network shall provide the department and the Attorney General, or their designees, full and complete, real-time access to the accounting and school district financial management software utilized by the school district.

(2) A school district may satisfy the obligation under subsection (g)(1) of this section by converting to the Arkansas Public School Computer Network, but the school district still shall provide the department and the Attorney General, or their designees, with full and complete access to the prior financial management system.

(h) This section shall not:

(1) Force entry of a consent decree or settlement agreement by the department or the Attorney General with the three (3) Pulaski County school districts; or

(2) Protect any school district from action or sanction by the department for fiscal, academic, or facilities distress.

History. Acts 2007, No. 395, § 2; 2008 (1st Ex. Sess.), No. 2, §§ 1, 2; 2009, No. 242, § 2; 2011, No. 624, § 1; 2011, No. 701, § 2.

A.C.R.C. Notes. Acts 2013, No. 1310, § 28, provided: "PULASKI COUNTY DESEGREGATION CASE COSTS FUND TRANSFER. The Department of Education shall retain and use any unexpended balance of funds transferred to the Department of Education Fund Account during the 2007-09 biennium for the purpose of providing funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts to comply with the provisions of Arkansas Code §6-20-415 and §6-20-416. These retained funds shall be used exclusively to provide funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts under Arkansas Code §6-20-415 and §6-20-416.

"No portion of these retained funds shall be expended by the Department of Education without certification by the Commissioner of the Department of Education to the Chief Fiscal Officer of the State and prior approval by the Chief Fiscal Officer of the State.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Amendments. The 2008 (1st Ex. Sess.) amendment substituted "2008-2009" for "2007-2008" in (b)(1)(D); and substituted "December 31, 2008" for "June 14, 2008" in (c)(2).

The 2009 amendment substituted "December 31, 2009" for "December 31, 2008" in (c)(2).

The 2011 amendment by No. 624 substituted "December 31, 2012" for "December 31, 2009" in (c)(2).

The 2011 amendment by No. 701 inserted (e) through (g) and redesignated former (e) as (h).

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. The Little Rock School District's Quest for Unitary Status, 30 U. Ark. Little Rock L. Rev. 267.

SUBCHAPTER 5 — FUNDS FOR CHILDREN WITH DISABILITIES AND FOSTER CHILDREN

SECTION.

6-20-502. Definitions.

6-20-502. Definitions.

As used in this subchapter:

(1) “Child living in a foster home” means a school-age child in this state living in the residence of the guardian or the residence of a foster family home or child care facility when the Department of Human Services has custody of the child or when the child has been placed in a foster family home or child care facility by a circuit court or a juvenile division of a circuit court, or when the child has been placed in a family care and training home by the department. “Child care facility” shall not include any unit of the human development centers operated by the department or its successor;

(2) “Child with disabilities” or “student with disabilities” means a person eligible to attend the public schools in this state who is identified as disabled in accordance with regulations promulgated by the State Board of Education under the Children With Disabilities Act of 1973, § 6-41-201 et seq.;

(3) “Federal funds” means any federal funds received by the school district that are of a category or nature that would have benefited a child with disabilities or a child living in a foster home, as defined in this subchapter, if the child had attended the school district during the school year or the portion of the school year but who instead attended another school district in this state which makes application for funds to be used in behalf of the education of the child, as provided in this subchapter;

(4) “Local operating funds” means any local operating funds derived from property taxes for the school year, including any surplus funds received from millage pledged for indebtedness purposes but which are not necessary to meet debt service requirements and are transferred to the operating account of the school district for the year;

(5) “Receiving district” means a school district in this state in which a child attends or seeks to attend school other than the school district of residence of the child;

(6) “Sending district” means the school district that is defined by laws or regulations as being the school district of residence of the school-age child; and

(7) “State funds” means any state funds received by the school district under the Public School Funding Act of 2003, § 6-20-2301 et seq., the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., or other state special education funds.

History. Acts 1981, No. 815, § 1; A.S.A. 1995, No. 1296, § 26; 1999, No. 391, § 17; 1947, § 80-738; Acts 1993, No. 294, § 13; 2009, No. 376, § 39.

Amendments. The 2009 amendment substituted “the Public School Funding Act of 2003, § 6-20-2301 et seq., the Arkansas Public School Academic Facilities

Funding Act, § 6-20-2501 et seq.” for “§ 6-20-301 et seq. [repealed]” in (7), and made a related change.

SUBCHAPTER 6 — LOCAL SCHOOL DISTRICT ISOLATED FUNDING

SECTION.

6-20-601. Qualifications for receiving isolated funding.

6-20-602. Isolated schools.

6-20-603. Continued support of isolated school districts.

SECTION.

6-20-604. Additional funding.

6-20-606. Phasing out of funding for isolated schools. [Effective July 1, 2014].

A.C.R.C. Notes. Acts 2013, No. 1309, § 37, provided: “ISOLATED FUNDING - SPECIAL PROVISIONS. When the Department of Education uses a new methodology or technology to recalculate square miles to determine student transportation distance, density ratio, total area, or bus route miles for the purpose of determining the amount of isolated funding a school district receives under Ark. Code Ann. § 6-20-601 et seq., the school district shall receive an amount of isolated funding that is not less than the amount of isolated funding the school district would have received based on the school district’s square miles calculated in the prior school year; provided that the school district remains eligible for isolated funding under § 6-20-601 et seq.

“The provisions of this section shall be in effect only from July 1, 2012 through June 30, 2014.”

Effective Dates. Acts 2009, No. 811, § 4: Apr. 3, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that school districts that enroll students in an isolated school or from a closed isolated school need funding for the transportation of those students to and from the isolated area; that some school districts may lose isolated school funding when an isolated school is closed but continue to have the additional transportation costs; that the loss of the funding may place a hardship on the school district involved; and that this act is immediately necessary because school districts affected by this act and the Department of Education need to resolve the funding issues under this act before the beginning of the

2009-2010 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2010, No. 293, § 35: July 1, 2010. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for a longer period than one (1) fiscal year; that the effectiveness of this Act on July 1, 2010 is essential to the operation of the agency for which the appropriations in this Act are provided, with the exception that Section 32 in this Act which shall be in full force and effect from and after the date of its passage and approval, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2010 could work irreparable harm upon the proper administration and provision of essential governmental programs, with the exception that Section 32 in this Act which shall be in full force and effect from and after the date of its passage and approval. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2010, with the exception that Section 32 in this Act which

shall be in full force and effect from and after the date of its passage and approval.”

Acts 2011, No. 1075, § 35: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2011 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the

event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2011 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2011.”

Acts 2013, No. 1005, § 2: July 1, 2014. “This act is effective on July 1, 2014.”

6-20-601. Qualifications for receiving isolated funding.

(a) As used in this section, “isolated school district” means a school district that meets any four (4) of the following five (5) criteria:

(1) There is a distance of twelve (12) miles or more by hard-surfaced highway from the high school of the district to the nearest adjacent high school in an adjoining district;

(2) The density ratio of transported students is less than three (3) students per square mile of area;

(3) The total area of the district is ninety-five square miles (95 sq. mi.) or greater;

(4) Less than fifty percent (50%) of bus route miles is on hard-surfaced roads; and

(5) There are geographic barriers such as lakes, rivers, and mountain ranges that would impede travel to schools that otherwise would be appropriate for consolidation, cooperative programs, and shared services.

(b) An isolated school district shall be eligible to receive isolated funding under this section if:

(1) The school district’s budget is prepared by the school district with Department of Education approval;

(2) The school district has a prior-year three-quarter average daily membership of less than three hundred fifty (350); and

(3) The school district and each school within the school district meets the minimum standards for accreditation of public schools prescribed by law and regulation.

(c) Any school district designated as an isolated school district for the 1996-1997 fiscal year that used geographic barriers as one (1) of the four (4) criteria necessary to receive isolated funding shall be allowed to continue to use geographic barriers as a criterion for future allocations of isolated funding.

(d)(1) State financial aid in the form of isolated funding shall be provided to school districts qualifying under this section.

(2) There are two (2) categories of isolated funding:

(A) Category I isolated funding shall be provided to all school districts that qualify under this section and shall be calculated as:

- (i) Three hundred fifty (350) minus the prior-year three-quarter average daily membership; divided by
- (ii) Eight hundred fifty (850); multiplied by
- (iii) The prior-year three-quarter average daily membership; and multiplied by
- (iv) The per-student foundation funding amount under § 6-20-2305(a)(2); and

(B) Category II isolated funding shall be additionally provided to those school districts that qualify under this section and have a prior-year three-quarter average daily membership density ratio of less than one and two-tenths (1.2) students per square mile and shall be calculated at fifty percent (50%) of Category I funding.

(3)(A) An isolated school district whose per-student revenue exceeds the per-student foundation funding amount shall receive isolated funding calculated as follows:

- (i) The sum of Category I plus Category II; minus
- (ii) The per-student foundation funding amount; minus
- (iii) The school district's per-student revenue; and multiplied by
- (iv) The prior-year three-quarter average daily membership.

(B) As used in this subdivision (d)(3), "revenue" has the same meaning as defined in § 6-20-2303.

(e)(1) Except as provided under subdivision (e)(2) of this section, a school district that qualifies under § 6-20-603 to receive additional state aid because its prior-year three-quarter average daily membership is less than three hundred fifty (350) is not eligible to receive funding under this section.

(2) A school district may elect to receive funding under this section in lieu of funding under § 6-20-603 if the school district qualifies for funding under § 6-20-603 and for funding under this section.

History. Acts 1997, No. 1318, § 1; 1999, No. 1549, § 21; 2001, No. 1220, § 11; 2011, No. 1131, § 1.

Amendments. The 2011 amendment inserted "under this section" in the introductory language of (b); substituted "school district" for "local district" in

(b)(1); substituted "a prior-year three-quarter average daily membership" for "an average daily membership" in (b)(2); inserted "and each school within the school district" in (b)(3); and rewrote (d) and (e).

6-20-602. Isolated schools.

(a) "Isolated school" means a school within a school district that:

(1) Prior to administrative consolidation or annexation under this section, § 6-13-1601 et seq., and § 6-13-1405(a)(5) [repealed] qualified as an isolated school district under § 6-20-601; and

(2) Is subject to administrative consolidation or annexation under this section, § 6-13-1601 et seq., and § 6-13-1405(a)(5) [repealed].

(b) Any isolated school within a resulting or receiving district shall remain open unless the school board of directors of the resulting or

receiving district adopts a motion to close the isolated school or parts thereof by:

(1) Unanimous vote of the full board of directors; or

(2)(A) A majority vote of the full board of directors, but less than a unanimous vote, and the motion is considered by and approved by a majority vote of members of the State Board of Education.

(B) Any school board of directors seeking the state board approval to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section shall:

(i) No less than thirty (30) days prior to a regularly scheduled state board meeting, request a hearing on the matter before the state board and file a petition to have the motion reviewed and approved by the state board.

(ii) The petition shall:

(a) Identify the specific isolated schools or part thereof that the local board of directors has moved to close;

(b) State all reasons that the isolated schools or part thereof should be closed;

(c) State how the closure will serve the best interests of the students in the district as a whole;

(d) State if the closure will have any negative impact on desegregation efforts or violate any valid court order from a court of proper jurisdiction; and

(e) Have attached a copy of the final motion approving the closure by the local board of directors.

(C)(i) Upon receiving a petition for approval of a motion to close all or part of an isolated school under subdivision (b)(2)(A) of this section, the state board shall have the authority to review and approve or disapprove the petition.

(ii) The state board shall only approve a motion to close isolated schools or parts thereof under subdivision (b)(2)(A) of this section if the closure is in the best interest of the students in the school district as a whole.

(iii) The state board shall not close a school if the state board finds that the closure will have any negative impact on desegregation efforts or will violate any valid court order from a court of proper jurisdiction.

(D)(i) Except under subdivision (b)(2)(D)(ii) of this section, the state board shall not require the closure of all or part of an isolated school without a motion from the local board of directors as required under subdivision (b)(2)(A) of this section.

(ii) This section shall not be construed to restrict the authority of the Department of Education and the state board otherwise granted by law.

(c) Funding for isolated school districts shall be expended by the resulting or receiving district only on the operation, maintenance, and other expenses of the isolated schools within the resulting or receiving district.

History. Acts 2003 (2nd Ex. Sess.), No. 60, § 5; 2005, No. 1397, § 2; 2011, No. 1131, § 2.

Amendments. The 2011 amendment

added the exception at the beginning of present (b)(2)(D)(i); and added (b)(2)(D)(ii).

CASE NOTES

Closure.

In an appeal by parents under § 25-15-212 of the State Board of Education’s decision to close a K-12 school campus under subsection (a) of this section, the state’s duty to provide an adequate education, its obligation to render a definition of excessive transportation time, and its obligation to adequately fund the transportation needs of school districts were not issues before the court where the state was not a party to the action. Walker v. Ark. State Bd. of Educ., 2010 Ark. 277, 365 S.W.3d 899 (2010).

The Administrative Procedure Act (APA), § 25-15-201 et seq., is applicable to a decision by the State Board of Education regarding a petition for closure, pursuant to this section, because the Board is an administrative agency, whose decisions

are subject to appeal as governed by the APA, and the Board acts in a judicial or quasi-judicial capacity, rather than a day-to-day administrative capacity, when it reviews a petition for closure of an isolated school. Walker v. Ark. State Bd. of Educ., 2010 Ark. 277, 365 S.W.3d 899 (2010).

In an appeal by parents of the State Board of Education’s decision to close a K-12 school campus under subsection (a) of this section, the parents’ allegation that their children would suffer a negative impact on their academic achievement due to the Board’s approval of the school district’s petition for closure was sufficient injury to confer standing under § 25-15-212. Walker v. Ark. State Bd. of Educ., 2010 Ark. 277, 365 S.W.3d 899 (2010).

6-20-603. Continued support of isolated school districts.

(a) Upon the effective date of consolidation, annexation, or reorganization, the following school districts that received isolated funding in the 2003-2004 school year shall become isolated school areas for the sole purpose of receiving isolated funding and shall have a per student isolated funding amount as follows:

County	School District	Per Student Isolated Funding Amount
<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
Van Buren	Alread	2,219
Desha	Arkansas City	2,040
Randolph	Biggers-Reyno	763
Miller	Bright Star	916
Marion	Bruno-Pyatt	329
Dallas	Carthage	1,938
Independence	Cord-Charlotte	235
Woodruff	Cotton Plant	733
Crittenden	Crawfordsville	642
Newton	Deer	853
Greene	Delaplaine	215
Desha	Delta Special	952
Nevada	Emmet	307

County	School District	Per Student Isolated
<u>Column A</u>	<u>Column B</u>	<u>Funding Amount</u>
Sharp	Evening Shade	115
Ashley	Fountain Hill	339
Yell	Fourche Valley	1,603
Arkansas	Gillett	1,000
Lincoln	Gould	765
Lincoln	Grady	560
Polk	Hatfield	42
Monroe	Holly Grove	868
Arkansas	Humphrey	328
Union	Huttig	668
Cleveland	Kingsland	394
Madison	Kingston	661
Phillips	Lake View	1,054
Searcy	Leslie	628
Lawrence	Lynn	782
Columbia	McNeil	329
Union	Mount Holly	898
Newton	Mount Judea	622
Izard	Mount Pleasant	225
Johnson	Oark	1,576
Montgomery	Oden	671
Saline	Paron	733
Yell	Plainview-Rover	297
Franklin	Pleasant View	679
Randolph	Randolph County	444
Lawrence	River Valley	106
Stone	Rural Special	788
Searcy	Saint Joe	727
Madison	Saint Paul	123
Hempstead	Saratoga	1,407
Van Buren	Scotland	1,841
Dallas	Sparkman	487
Ouachita	Stephens	1
Stone	Stone County	367
Jackson	Swifton	458
Columbia	Taylor	353
Howard	Umpire	2,152
Union	Union	45
Columbia	Walker	819
Newton	Western Grove	375

County	School District	Per Student Isolated Funding Amount
<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
Cleburne	Wilburn	978
Sharp	Williford	475
Washington	Winslow	494

(b) Each school year, state financial aid in the form of isolated funding shall be provided to school districts containing an isolated school area in an amount equal to the prior-year three-quarter average daily membership of the isolated school area multiplied by the per student isolated funding amount for the isolated school areas as set forth under column "C" of subsection (a) of this section.

(c)(1) Except as provided under subdivision (c)(2) of this section, a school district may not receive isolated funding under this section for an isolated school area if the prior-year three-quarter average daily membership of the isolated school area exceeds three hundred fifty (350).

(2) A school district is entitled to receive the funding under this section for an isolated school area received by the school district in:

(A) A consolidation under § 6-13-1401 et seq. or § 6-13-1601 et seq.; or

(B) An annexation under § 6-13-1401 et seq. or § 6-13-1601 et seq.

(d) A school district receiving isolated funding for an isolated school area shall expend the funds solely for the operation, maintenance, and support of the isolated school area.

(e)(1) Except as provided under subdivision (e)(2) of this section, a school district that qualifies under § 6-20-601 to receive additional state aid because its prior-year three-quarter average daily membership is less than three hundred fifty (350) is not eligible to receive funding under this section.

(2) A school district may elect to receive funding under this section in lieu of funding under § 6-20-601 if the school district qualifies for funding under § 6-20-601 and for funding under this section.

(f) For the purposes of this section, school districts with isolated school areas shall account for the average daily membership of all schools located in the isolated school areas as required by the Department of Education and shall submit reports as required by the department.

(g) The department shall distribute isolated funding under this section in two (2) payments per school year.

(h) This section does not determine a school district's qualification as an isolated school district under § 6-20-601 as required to prohibit the closing of an isolated school in § 6-20-602.

(i)(1)(A) If all of an isolated school area in a school district is closed, the school district shall receive funding based on the prior-year three-quarter average daily membership of the isolated school area.

(B) If part of an isolated school area in a school district is closed, the school district funding is based on the prior-year three-quarter

average daily membership of the part of the isolated school area that remains open.

(C) Funding received by a school district under this subsection is restricted for use at the closed isolated school area or for transporting students of the closed isolated school area to another school in the district.

(2) If a closed isolated school area is subsequently used by the school district for an alternative learning environment program or other regular classroom teaching, the school district using the now closed isolated school area may submit prior-year three-quarter average daily membership to the state to request funding under this section.

(j) The State Board of Education may promulgate rules as necessary for the proper implementation of this section.

History. Acts 2003 (2nd Ex. Sess.), No. 65, § 1; 2007, No. 1573, §§ 29, 30; 2009, No. 811, § 1; 2011, No. 996, § 1; 2011, No. 1131, § 3.

Amendments. The 2009 amendment inserted “Except as provided under § 6-20-604(g)” in (i)(1); deleted (i)(3), and made a related change.

The 2011 by No. 996 amendment rewrote (c).

The 2011 amendment by No. 1131 substituted “prior-year” for “prior year’s” in

(b), (c) and present (i)(1)(A); inserted present (c)(2); rewrote (e); deleted former (i)(1), inserted present (i)(1)(B) and (i)(1)(C), and redesignated the remaining subdivisions accordingly; and, in present (i)(1)(A), substituted “If all of an isolated school area” for “If all or part of an isolated school” and “the isolated school area” for “or the part of the isolated school that remains open.”

6-20-604. Additional funding.

(a) The General Assembly finds that school districts that contain isolated schools need additional funding to provide an adequate education for students attending schools in those school districts.

(b) A school district shall receive special needs funding under subsections (c), (d), or (e) of this section if the school district meets the requirements of subsections (c), (d), or (e), respectively, of this section and if:

(1) The school district was consolidated or annexed or received an annexed school under § 6-13-1601 et seq.;

(2) The local school board of directors by majority vote determines that the isolated school is so isolated that to combine its operation to one (1) school district campus would be impractical or unwise; and

(3) The isolated school or school district:

(A) Meets the requirements of § 6-20-601 and filed an affidavit of isolated school status with the State Board of Education during the consolidation or annexation process, and the facts of the affidavit are verified by the state board or its designee;

(B) Meets the requirements of § 6-20-601 and filed an affidavit of isolated school status with the state board after the consolidation or annexation process or with regard to the 2006-2007 school year no later than June 1, 2006, and the facts of the affidavit are verified by the state board or its designee; or

(C) Meets the requirements of § 6-20-601 but for the prior-year three-quarter average daily membership requirement of three hundred fifty (350) students or fewer and filed an affidavit of isolated school status with the state board after the consolidation or annexation process or with regard to the 2006-2007 school year no later than June 1, 2006, and the facts of the affidavit are verified by the state board or its designee.

(c) A school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to twenty percent (20%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership for the school district to be used for the operation of the isolated school areas if the school district has:

(1) School facilities serving students in any grade in kindergarten through grade twelve (K-12), in one (1) or more isolated schools meeting the requirements of subsection (b) of this section;

(2) A prior-year three-quarter average daily membership for the school district of five hundred (500) or less; and

(3) A density ratio of one and three-tenths (1.3) students or less per square mile.

(d)(1) A school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to fifteen percent (15%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership for the school district to be used for the operation of the isolated school areas if the school district has:

(A) School facilities open for kindergarten through grade twelve (K-12) in two (2) or more isolated schools meeting the requirements of subsection (b) of this section and meeting the requirements of § 6-20-601 and if both isolated schools were annexed under § 6-13-1601 et seq.;

(B) A prior-year three-quarter average daily membership for the school district of five hundred one (501) to one thousand (1,000); and

(C) A density ratio of one and four-tenths (1.4) students or less per square mile.

(2) A school district with a three-quarter average daily membership of one thousand one (1,001) or greater is entitled to receive the funding under this section for an isolated school area received by the school district in:

(A) A consolidation under § 6-13-1401 et seq. or § 6-13-1601 et seq.; or

(B) An annexation under § 6-13-1401 et seq. or § 6-13-1601 et seq.

(e)(1) Except as provided in subdivision (e)(2) of this section, a school district meeting the requirements of subsection (b) of this section shall receive an additional amount equal to ten percent (10%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership of the isolated school area to be used for the operation of the isolated school

area if the school district has school facilities open for kindergarten through grade twelve (K-12) in one (1) or more isolated school areas meeting the requirements of subsection (b) of this section.

(2) A school district shall receive an additional amount equal to ten percent (10%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership of the isolated school area to be used for the operation of the isolated school area if:

(A) The school district has school facilities serving students in any grade in kindergarten through grade twelve (K-12) in one (1) or more isolated school areas meeting the requirements of subsection (b) of this section; and

(B) The school district closed an isolated facility serving students in grades seven through twelve (7-12).

(f) A school district shall receive an additional amount equal to five percent (5%) of the per-student foundation funding amount under § 6-20-2305(a)(2) multiplied by the prior-year three-quarter average daily membership of the school district if the school district has a:

(1) Prior-year three-quarter average daily membership of less than five hundred (500) students; and

(2) Density ratio of two (2) students or less per square mile.

(g) A school district eligible for special needs funding under this section shall continue to be eligible to receive isolated school funding provided under § 6-20-603 but shall only receive funding under one (1) of the categories established under subsections (c)-(f) of this section.

(h)(1) This section is contingent on the appropriation and availability of funding for its purposes.

(2)(A) Undistributed funds under this section and §§ 6-20-601 and 6-20-603 shall be distributed on an equal basis per school district to each school district that is eligible to receive funds under subsections (c), (d), or (e) of this section.

(B) Funds distributed under subdivision (h)(2)(A) of this section shall be used by the school district only for transportation costs of the isolated school areas in the school district.

(3) Funding provided under this section is in addition to and in excess of the amount of funds necessary to provide an adequate education as required by the Arkansas Constitution and cannot be relied upon beyond the expiration date of an appropriation made for the purposes of this section.

History. Acts 2005, No. 1452, § 1; 2006 (1st Ex. Sess.), No. 21, § 2; 2007, No. 1052, §§ 1, 2; 2007, No. 1573, §§ 31, 32; 2009, No. 811, §§ 2, 3; 2010, No. 293, § 32; 2011, No. 996, § 2; 2011, No. 1075, § 31; 2011, No. 1131, § 4; 2013, No. 1073, § 33.

A.C.R.C. Notes. Acts 2011, No. 1075, § 31, purported to amend § 6-20-604(e) but made no change.

Acts 2012, No. 269, § 31, contained a previous version of § 6-20-604(e) and was set out in that act indicating no amendment. A.C.R.C. staff has determined that the inclusion of § 6-20-604(e) in Acts 2012, No. 269, § 31, was a clerical error. Section 6-20-604(e) is set out above as last amended by Acts 2011, No. 1131, § 4.

Amendments. The 2009 amendment, in (c)(1), substituted "serving students in

any grade in" for "open for," substituted "one (1)" for "two (2)," and made a minor punctuation change; and substituted "expiration date of an appropriation made for the purposes of this section" for "2007-2009 biennium" in (h)(3).

The 2010 amendment added (e)(2); and added "Except as provided in subdivision (e)(2) of this section" at the beginning of (e)(1).

The 2011 amendment by No. 996 redesignated former (d) as present (d)(1) and added (d)(2).

The 2011 amendment by No. 1131 rewrote the section.

The 2013 amendment deleted "between January 1, 2008, and July 1, 2008" following "twelve (7-12)" in (e)(2)(B).

6-20-606. Phasing out of funding for isolated schools. [Effective July 1, 2014].

When the prior-year three-quarter average daily membership density ratio of a school district that receives funding under this subchapter is greater than the prior-year three-quarter average daily membership density ratio for which the school district qualifies for the funding, the funding shall be reduced over a period of ten (10) years by the lesser of ten percent (10%) per year of the funding received in the school year immediately preceding the school year in which the density ratio increased due to the Department of Education's use of different technology for determining the area of the school district.

History. Acts 2013, No. 1005, § 1. § 2: July 1, 2014. "This act is effective on
Effective Dates. Acts 2013, No. 1005, July 1, 2014."

SUBCHAPTER 7 — SCHOOL LUNCH PROGRAM

SECTION.

6-20-701. Definitions.

6-20-701. Definitions.

As used in this subchapter:

- (1) "School" means public tax-supported elementary or high school;
- (2) "School district" means:

(A) A geographic area with an elected board of directors that qualifies as a taxing unit for purposes of school district taxes under § 26-80-101 et seq., which board of directors conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and this title; and

(B) An open-enrollment public charter school; and

(3) "School lunch program" means a program under which lunches are served by any school in this state on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by United States Congress.

History. Acts 1947, No. 157, § 1; A.S.A. 1947, § 80-125; Acts 2013, No. 1073, § 34. **Amendments.** The 2013 amendment rewrote (2).

SUBCHAPTER 8 — REVOLVING LOAN PROGRAM — GENERAL PROVISIONS**SECTION.**

6-20-803. Loans to local school districts.

6-20-815. Refunding obligations.

6-20-803. Loans to local school districts.

(a) The maximum amount of money a local school district may borrow from the Revolving Loan Fund shall be five hundred thousand dollars (\$500,000).

(b) Notwithstanding subsection (a) of this section, a school district participating in the Compressed Natural Gas School Bus Pilot Program under § 6-19-128 additionally may borrow up to one million five hundred thousand dollars (\$1,500,000) for the purchase of new compressed natural gas school buses.

History. Acts 1987, No. 552, § 1; 1995, No. 913, § 1; 2006 (1st Ex. Sess.), No. 22, § 4; 2006 (1st Ex. Sess.), No. 23, § 4; 2013, No. 1195, § 2.

Amendments. The 2013 amendment inserted subsection designation (a) and added subsection (b).

6-20-815. Refunding obligations.

(a) In order that the Revolving Loan Program may be kept on a sound financial basis, school districts having heretofore issued revolving loan bonds or revolving loan certificates of indebtedness are authorized to issue refunding bonds, in the case of revolving loan bonds, and refunding certificates, in the case of revolving loan certificates of indebtedness, herein collectively referred to as refunding obligations.

(b) Refunding obligations may be issued pursuant to the prior approval of the State Board of Education and may bear a higher rate of interest than the bonds or certificates being refunded.

(c) The last maturity date of the refunding obligations must not be later than the last maturity date of the bonds or certificates being refunded.

(d) Refunding obligations shall enjoy the same security for their payment as was enjoyed by the bonds or certificates refunded thereby, including particularly and without limitation, any continuing annual debt service fund tax voted and pledged to their payment.

(e) Except as to particulars dealt with in this section, refunding obligations shall be governed, insofar as their authorization and security are concerned, by the provisions of this subchapter.

History. Acts 1953, No. 384, § 16, as added by Acts 1967, No. 480, § 3; A.S.A. 1947, § 80-957; Acts 2011, No. 989, § 63.

Amendments. The 2011 amendment substituted “debt service” for “building” in (d).

SUBCHAPTER 11 — REVOLVING LOAN FUND — EMERGENCY REVOLVING LOAN FUND ACCOUNT

SECTION.
6-20-1101. [Repealed.]

6-20-1101. [Repealed.]

Publisher's Notes. This section, concerning scope, was repealed by Acts 2009, No. 376, § 40. The section was derived from Acts 1973, No. 218, § 6; A.S.A. 1947, § 80-983.

SUBCHAPTER 12 — DISTRICT BONDS

SECTION.
6-20-1201. Authority to borrow money and issue negotiable bonds.
6-20-1204. Form of bonds — Security.
6-20-1206. Manner and terms of sale — Maximum rate of interest.
6-20-1209. Debt service fund — Establishment and purpose.
6-20-1210. Debt service fund — Use.
6-20-1211. Tax records — Separate debt service fund records.

SECTION.
6-20-1212. Resolution setting priority in case of default.
6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.
6-20-1220. Refunding bonds — Issuance with election — Validation.
6-20-1223. Refunding bonds — Issuance without election.
6-20-1225. Certificates of indebtedness.

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-1201. Authority to borrow money and issue negotiable bonds.

A school district may borrow money and issue negotiable bonds to repay borrowed moneys from school funds for:

- (1) Building and equipping school buildings;
- (2) Making additions and repairs to school buildings;
- (3) Purchasing sites for school buildings;
- (4) Purchasing new or used school buses;

- (5) Refurbishing school buses;
- (6) Providing professional development and training of teachers or other programs authorized under the federally recognized qualified zone academy bond program, 26 U.S.C. § 1397E; and
- (7) Paying off outstanding postdated warrants, installment contracts, revolving loans, and lease-purchase agreements, as provided by law.

History. Acts 1931, No. 169, § 59; § 15; 2003, No. 1738, § 4; 2009, No. 1469, Pope's Dig., § 11492; A.S.A. 1947, § 80- § 10.
1101; Acts 1991, No. 405, § 1; 1994 (2nd Ex. Sess.), No. 43, § 1; 2001, No. 1220, **Amendments.** The 2009 amendment rewrote the section.

6-20-1204. Form of bonds — Security.

(a) School bonds shall be issued by a school district in the form prescribed by the school district's board of directors.

(b) School bonds may be secured by debt service millage.

(c)(1) As additional security for the payment of any bond of a school district, the Commissioner of Education shall cure a delinquency in payment by withholding state funding due the district.

(2)(A)(i) When the designated paying agent for receipt of the district's payments does not receive a payment when due pursuant to the authorizing documents, the paying agent is entitled to payment from the withheld state funding in an amount sufficient to cure the payment deficiency if the designated paying agent notifies the commissioner and the superintendent of the school district by telephone, facsimile, or other similar communication followed by written verification.

(ii) Unless the commissioner determines that payment has been made by the school district and that there is not a payment deficiency, the commissioner shall withhold from the next distribution of state funding and remit to the paying agent an amount sufficient to cure the deficiency.

(B) If the amount next due to be distributed to the delinquent school district is not sufficient to cure the delinquency, the commissioner shall continue to withhold state funding as due and remit it to the paying agent until the payment deficiency has been cured.

(C) If the commissioner is notified that a school district is delinquent on two (2) or more obligations, the commissioner shall make payment to paying agents in the order of receipt of notices of the delinquencies.

(3) If the commissioner withholds state funding from a school district pursuant to this subsection, the Department of Education shall identify the school district to be a school district in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

(4) The requirements of this subsection apply to bonds issued by a school district before July 1, 2013.

(d)(1) For school bonds issued by a school district on or after July 1, 2013, a school district shall submit bond payments to its designated paying agent not later than fifteen (15) calendar days before the date the payments are due under the authorizing documents.

(2) Whenever the designated paying agent does not receive a payment within the time period in subdivision (d)(1) of this section, the paying agent immediately shall notify the commissioner and the superintendent of the school district in writing.

(3)(A) If the designated paying agent does not receive the bond payment from the district at least five (5) calendar days before the date the payment is due under the authorizing documents, the department immediately shall cure any deficiency in payment by making payment in the full amount of the deficiency to the designated paying agent.

(B) If the commissioner determines that payment has been made by the school district and that a payment deficiency does not exist, the department shall not make the payment under subdivision (d)(3)(A) of this section.

(C) If the department makes payment under subdivision (d)(3)(A) of this section, it may identify the school district on behalf of which the payment is made to be a school district in fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq.

(D)(i) If the department makes payment under subdivision (d)(3)(A) of this section, a school district shall be indebted to the department in the full amount paid by the department and immediately shall remit the full amount to the department.

(ii) If a school district does not remit the full amount to the department under subdivision (d)(3)(D)(i) of this section, the department shall withhold from the school district the next distribution of state funding in an amount sufficient to reimburse the department for the payment.

(iii) In the event that the amount of state funding next due to be distributed to the school district is not sufficient to reimburse the department, the department shall continue to withhold state funding due to the school district until the department is fully reimbursed.

(iv) If the commissioner determines that payment has been made to the department by the school district and that the obligation of the school district to the department no longer exists, the department shall not withhold from the school district the distribution of state funding under subdivisions (d)(3)(D)(ii)-(iii) of this section.

(e) As used in subsections (c) and (d) of this section, "state funding" includes without limitation:

(1) The following state funding under § 6-20-2305:

- (A) State foundation funding aid;
- (B) Declining enrollment funding;
- (C) Student growth funding; and
- (D) State categorical funding;

(2) Isolated funding and additional isolated funding under § 6-20-601 et seq.; and

(3) Other funding due to a school district under an appropriation of the General Assembly.

(f) Holders of bonds of the school district shall have a first and prior right and security interest in the revenue produced by the debt service millage pledged by the school district to the payment of its bonds.

(g) The State Board of Education may promulgate the rules and regulations necessary to administer this section.

History. Acts 1931, No. 169, § 61; Pope's Dig., § 11494; Acts 1975, No. 220, § 1; A.S.A. 1947, § 80-1104; Acts 1997, No. 1300, § 17; 1997 No. 1329, § 1; 2013, No. 110, § 1.

Amendments. The 2013 amendment substituted "funding" for "aid" throughout the section; substituted "the form prescribed by the school district's board of directors" for "such form as the directors of the district shall prescribe" in (a); in (c)(1), substituted "Commission of Education" for "State Board of Education," and "a delinquency" for "any delinquencies";

substituted "if the designated paying agent notifies the commissioner" for "upon notifying the Commissioner of Education" in (c)(2)(A)(i); substituted "If" for "In the event that" in (c)(2)(B); in (c)(3), substituted "commissioner" for "state board," inserted "the Department of Education shall identify" and substituted "to be a school district ... Accountability Program, § 6-20-1901 et seq." for "shall be classified as a Phase III school district in distress as described in § 6-20-1609 [repealed]"; added (c)(4), (d), (e) and (g); and redesignated former (d) as present (f).

6-20-1206. Manner and terms of sale — Maximum rate of interest.

(a)(1) All school bonds shall be sold to the highest bidder at public sale.

(2)(A)(i) Advertisement of a bond sale under this section shall be published in at least one (1) newspaper published in the county with the publication to be one (1) time a week for two (2) weeks.

(ii) The first publication shall be at least thirteen (13) days before the date of the sale.

(B)(i) If the newspaper responsible for publishing the advertisement of a bond sale does not publish either or both of the two (2) publications required under this subsection within the required time frame, the Commissioner of Education may approve an alternate form of advertisement of the bond sale.

(ii) The public school district shall use the alternate form of advertisement only for the bond sale related to the failed publication.

(iii) Within thirty (30) days after the sale of bonds is completed for which an alternate form of advertisement is used by a public school district under this subdivision (a)(2)(B), the public school district shall provide by one (1) publication in a newspaper published in the county a notice:

(a) Of the date of the sale and the principal amount of the bonds sold; and

(b) That the alternate form of advertisement was used.

(3) At any time after receiving bids on bonds, all bids may be rejected and the bonds readvertised for the time and in the manner provided under subdivision (a)(2) of this section.

(4) The bonds shall bear interest at a rate or rates not exceeding the maximum lawful rate as defined in subsection (b) of this section.

(5) Bonds may be sold at a discount, but in no event shall the school district be required to pay more than the maximum lawful rate of interest on the amount received.

(6) Bonds may be sold with the privilege of conversion into bonds bearing a lower rate or rates of interest, but the school district shall receive no less and pay no more in principal and interest combined than it would receive and pay if the bonds were not converted.

(7) The school district shall pay the expenses of issuing the bonds and may supply the opinion of attorneys approving the validity of the bonds.

(8) No brokerage, agent's fees, or commissions of any kind for securing bids for the sale of school district bonds shall be allowed or paid on any bond sale unless it is approved by the commissioner, and any person giving or receiving it without approval shall be guilty of a Class A misdemeanor.

(b) As used in this section, "maximum lawful rate" means a rate of interest equal to five percent (5%) per annum above the rate for primary credit or its functional equivalent in effect at the Federal Reserve Bank in the Federal Reserve district in which Arkansas is located at the time a bid for bonds is accepted.

(c) The State Board of Education is authorized to set a maximum rate of interest at which school bonds may be sold under the conditions stated in subsection (a) of this section at any level below the maximum lawful rate.

History. Acts 1931, No. 169, § 63; 2005, No. 1994, § 197; 2009, No. 1466, Pope's Dig., § 11496; Acts 1970 (Ex. Sess.), No. 64, § 1; 1980 (1st Ex. Sess.), § 1.

No. 56, § 1; 1981, No. 812, § 1; 1983, No. 880, § 1; A.S.A. 1947, § 80-1106; Acts 1999, No. 1045, § 1; 2003, No. 210, § 3; **Amendments.** The 2009 amendment rewrote (a)(2); and substituted "provided under subdivision (a)(2) of this section" for "herein provided" in (a)(3).

6-20-1209. Debt service fund — Establishment and purpose.

All school districts in Arkansas proceeding under this act to borrow money and issue bonds, in addition to other security herein authorized, may and are authorized to establish a debt service fund in an amount sufficient to pay the maturities of bond principal and interest, as they accrue, of the issue of bonds, that the debt service fund shall be set aside out of the first revenues of the school district from whatever source derived and shall be held by the county treasurer, or school district treasurer if the school district has its own treasurer, solely in the manner and for the purposes set out throughout this act.

History. Acts 1931, No. 169, § 66; Pope's Dig., § 11499; A.S.A. 1947, § 80-1111; Acts 1995, No. 233, § 17; 2011, No. 989, § 64.

Amendments. The 2011 amendment substituted "debt service" for "building" in the section heading and throughout the section.

6-20-1210. Debt service fund — Use.

(a) The debt service fund shall not be used for any other purpose in any year than to pay the bonds and interest thereon maturing that year and any that may be past due, until the maturities are paid in full or until the funds are set aside to pay the full amount of the bonds; provided, the surplus in any year over and above the amount necessary to pay bonds and interest maturing that year, whether hereafter or heretofore issued, may be used by the respective school districts for any other school purposes.

(b) The county treasurer, or school district treasurer if the school district has its own treasurer, shall see to it that all warrants on the debt service fund of any school district are drawn only to pay maturities of principal or interest on bonds of this school district, other school purposes as herein provided, or past due interest as shown by the records in his or her office.

(c) It is intended that the provisions of this section are to be cumulative and are not to repeal the provisions of any other act now in force except such laws and parts of laws as may be in conflict herewith.

History. Acts 1931, No. 169, § 67; 1935, No. 63, §§ 1, 3; Pope's Dig., §§ 11500, 11506; Acts 1939, No. 326, § 2; A.S.A. 1947, §§ 80-1112, 80-1113; Acts 1995, No. 233, § 18; 2011, No. 989, § 65.

Amendments. The 2011 amendment substituted "Debt service fund" for "Build-

ing fund" or variant in the section heading and in (b); substituted "The debt service fund shall not" for "No part of any building fund shall" in (a); and deleted "and he or she shall countersign all warrants on the building fund before they are valid" following "his or her office" in (b).

6-20-1211. Tax records — Separate debt service fund records.

(a) In showing school taxes on the tax books, it shall not be necessary to show separate amounts for the debt service fund or any other fund that may be created by the school district board of directors, but there shall be one (1) amount extended on the tax books showing the total of the school district tax for that year.

(b) However, the county treasurer, or school district treasurer if the school district has its own treasurer, shall keep separate records in his or her office showing separately the debt service fund and shall see to it that on all settlements made with him or her of tax money or state apportionment money, the debt service fund is credited with all funds set apart for debt service by the electors or by the school district board of directors.

History. Acts 1931, No. 169, § 68; Pope's Dig., § 11501; A.S.A. 1947, § 80-1114; Acts 1995, No. 233, § 19; 2011, No. 989, § 66.

Amendments. The 2011 amendment substituted "debt service fund" for "building fund" in the section heading and in (a) and (b); and substituted "for debt service"

for “therefor” in (b).

6-20-1212. Resolution setting priority in case of default.

On the issuance of any bonds, the school district board of directors may provide by resolution, which shall be a contract with the holders of the bonds, that should there be a default in the payment of any installment of principal or interest when due, the first moneys coming to the school district from any source, other than the uniform rate of tax, shall be paid into the debt service fund and applied on past due principal or interest on the bonds until paid in full.

History. Acts 1931, No. 169, § 69; Pope’s Dig., § 11502; A.S.A. 1947, § 80-1115; Acts 1997, No. 1300, § 19; 2011, No. 989, § 67.

Amendments. The 2011 amendment substituted “debt service fund” for “building fund.”

6-20-1218. Refunding bonds — Maximum amounts — Conversion and sale.

(a) When the refunding bonds are issued to be exchanged for outstanding bonds, it shall not be necessary to advertise them for sale, but they may be executed and delivered to the Department of Education, and the Commissioner of Education shall, from time to time, as outstanding bonds are presented to him or her for exchange, certify and deliver refunding bonds in face value of the same proportion of the total face value of the refunding bond issue that the face value of the surrendered bonds bears to the total face value of the outstanding bonds to be refunded.

(b)(1) Refunding bonds may be exchanged for outstanding bonds, as provided in this section, or they may be sold for cash and the proceeds used to pay the outstanding bonds, or part of the refunding bonds may be exchanged and part of the refunding bonds may be sold, as the board of directors may deem best for the school district.

(2) In the event that after a school district has exchanged part of a refunding issue that has been converted to a lower interest rate as herein authorized and it becomes necessary or desirable to sell the balance of such a refunding issue to pay the bonds being refunded instead of exchanging them for refunding bonds, the school district may then advertise and sell the balance at the rate of interest to which the issue has been converted.

(c) If the refunding bonds are sold at public sale to refund outstanding bonds that have been called for redemption, they shall be fully executed and delivered to the designated escrow agent who shall have authority to surrender them, on and after the redemption date of the bonds being refunded, to the purchaser upon the deposit with the escrow agent on or before the redemption date of the money necessary for the redemption of the bonds being refunded.

(d)(1) In order to facilitate the refunding of school bonds, any school district issuing refunding bonds may issue certificates of indebtedness

maturing in one (1) to five (5) years, payable to bearer and negotiable, to cover the costs of refunding or interest due on outstanding bonds at the time they are exchanged for refunding bonds, or both.

(2) The certificates of indebtedness shall be paid out of the debt service fund of the school district from any surplus that remains in the debt service fund in any years after the payment of the full amount of bonds and interest due that year on the refunding issue.

(3) Any certificates of indebtedness issued in connection with an issue of refunding bonds shall be registered by the county treasurer.

(4) All certificates of indebtedness thus issued and registered shall not be invalidated because at the time of their issuance or at their maturity date there is not a surplus in the debt service fund available for their payment, but they shall continue as valid obligations of the school district until such a surplus in the debt service fund has accumulated for their payment.

History. Acts 1941, No. 95, § 1; A.S.A. 1947, § 80-1123; Acts 2005, No. 2121, § 16; 2011, No. 989, § 68.

substituted "debt service fund" for "building fund" in two places in (d)(2) and two places in (d)(4).

Amendments. The 2011 amendment

6-20-1220. Refunding bonds — Issuance with election — Validation.

Refunding bonds issued by any school district of the State of Arkansas, when authorized at any general or special school election by a vote of the electors of the school district for a continuing debt service fund to retire refunding bonds, shall be the valid, legal, and binding obligations of the school district provided that the issuance of the refunding bonds is approved by the State Board of Education or the Commissioner of Education prior to the issuance of the refunding bonds.

History. Acts 1935, No. 336, § 1; A.S.A. 1947, § 80-1125; Acts 1999, No. 1046, § 4; 2011, No. 989, § 69.

Amendments. The 2011 amendment substituted "debt service fund" for "building fund."

6-20-1223. Refunding bonds — Issuance without election.

(a) School districts of this state may issue refunding bonds without the necessity of submitting the question of issuing the refunding bonds to a vote of the electors of the school district and without the approval of the State Board of Education provided that:

(1) The last maturity date of the refunding bonds is not later than the last maturity date of the bonds being refunded;

(2) The total amount required to pay principal and interest of the refunding bonds as they become due and payable, as well as any issuance costs required to be paid by the school district, exclusive of issuance costs paid from the proceeds of the refunding bonds, must be less than the total amount required to pay principal and interest of the bonds being refunded as they become due and payable; and

(3) The issue has been approved by the Commissioner of Education or the commissioner's designee subject to Department of Education rules and regulations.

(b)(1) Refunding bonds, authorized by a resolution of the board of directors of the school district issuing them, may enjoy the same security for their payment as was enjoyed by the bonds refunded thereby, including particularly, and without limitation, any continuing annual debt service fund taxes voted and pledged to the payment of the bonds refunded thereby, except that, in all school districts operating pursuant to federal court desegregation decrees, the refunding bonds may but shall not be required to enjoy the same security for payment as was enjoyed by the bonds refunded.

(2) Except as to the particulars dealt with in this section, refunding bonds shall be governed insofar as their authorization and security are concerned by provisions of existing law.

History. Acts 1965, No. 43, § 1; 1975 (Extended Sess., 1976), No. 1233, § 1; A.S.A. 1947, § 80-1131; reen. Acts 1987, No. 1018, § 1; Acts 1989 (3rd Ex. Sess.), No. 64, § 1; 1999, No. 1046, § 5; 2011, No. 989, § 70.

Amendments. The 2011 amendment substituted "debt service fund" for "building fund" in (b)(1).

6-20-1225. Certificates of indebtedness.

(a) A school district of Arkansas filing a petition in United States District Court for the composition of its bonded indebtedness and having more than five (5) years' past due interest on bonds being purchased at a discount, in order to facilitate such purchase, shall have the right to issue certificates of indebtedness payable, without interest over a period of five (5) years, from the surplus in the debt service fund and any other available revenue that the school district may pledge, for an amount not to exceed two (2) years' interest on the bonds being purchased and not to exceed two percent (2%) of the assessed valuation of all taxable property in the school district as shown by the last county assessment and may pledge the surplus and available revenue for their payment.

(b) In any case in which a school district has heretofore issued certificates of indebtedness under substantially the conditions outlined in subsection (a) of this section, such action of the school district is approved and confirmed and the certificates of indebtedness so issued are declared to be the binding obligations of that school district, provided their issuance has been ordered or approved by the United States District Court in which the petition for composition of debt was filed.

History. Acts 1943, No. 151, § 1; A.S.A. 1947, § 80-1129; Acts 2011, No. 989, § 71.

substituted "debt service fund" for "building fund" in (a).

Amendments. The 2011 amendment

SUBCHAPTER 14 — STATE AID FOR CONSTRUCTION**SECTION.**

6-20-1401. Rules.

6-20-1407. Approval of building plans.

6-20-1401. Rules.

The Commission for Arkansas Public School Academic Facilities and Transportation may make rules consistent with this subchapter that the commission determines is necessary to accomplish the purposes of this subchapter.

History. Acts 1949, No. 230, § 8; A.S.A. deleted “and regulations” at the end of the 1947, § 80-3508; Acts 2009, No. 1473, § 8. section heading; and rewrote the section.

Amendments. The 2009 amendment

6-20-1407. Approval of building plans.

(a) As used in this section:

(1) “Public school facility” has the same meaning as defined in § 6-21-803 of the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.; and

(2) “Self-funded project” is a project that is one hundred percent (100%) raised and funded by the school district.

(b) No public school facility shall be built, added to, or renovated except in accordance with the plan finally approved by the Commission for Arkansas Public School Academic Facilities and Transportation for all projects in which the commission requires its approval.

(c) A copy of approved plans and specifications of all new public school facilities, additions, or renovations shall be filed with and approved by the commission before construction shall be commenced.

(d) The approval process established by the commission shall include review and approval by all appropriate and applicable state agencies, boards, and local officials necessary to meet the standard contained in the Arkansas Public School Academic Facility Manual.

(e)(1) For new public school facilities, a copy of final construction documents shall be submitted to the Design Review Section of the Arkansas Building Authority for review in regard to compliance with the Arkansas-adopted Americans with Disabilities Act Accessibility Guidelines.

(2) All review comments received from the authority shall be in writing.

(3) Corrected construction documents shall be received and approved by the Arkansas Building Authority.

(4) No new public school facilities project shall be released for bidding or construction until the requirements of this subsection are met.

(f)(1) For additions or renovations, a copy of final construction documents shall be submitted to the State Fire Marshal Enforcement Section of the Department of Arkansas State Police for review in regard

to compliance with the Arkansas-adopted Americans with Disabilities Act Accessibility Guidelines.

(2) All review comments received from the State Fire Marshal Enforcement Section shall be in writing.

(3) Corrected construction documents shall be received and approved by the State Fire Marshal Enforcement Section.

(4) No additions or renovation project shall be released for bidding or construction until the requirements of this subsection are met.

(g) Review and approval of plans under this section or otherwise shall not be a guarantee of state financial participation in any public school academic facilities project.

(h)(1) The commission shall approve a self-funded project that complies with state codes and standards.

(2) A school district may submit a self-funded project in the form of an appendix to the existing school district master plan at any time.

History. Acts 1949, No. 230, § 6; A.S.A. 1947, § 80-3506; Acts 1997, No. 1226, § 2; 2005, No. 1426, § 4; 2007, No. 989, § 2; 2009, No. 376, § 41; 2011, No. 1006, § 3.

Amendments. The 2009 amendment, in (d)(1), substituted "Design Review Section" for "Architectural Section," substituted "Americans with Disabilities Act Accessibility Guidelines" for "(ADAAC Americans with Disabilities Act Accessibility Guidelines)," and made a minor stylistic change.

The 2011 amendment inserted present (a) and (f) and redesignated the remaining subsections accordingly; in (b), substituted "public school facility" for "new

schoolhouse" and inserted "added to, or renovated"; in (c), substituted "public school facilities" for "schoolhouses or" and inserted "or renovations"; added "For new public school facilities" to the beginning of (e)(1); in (e)(4), inserted "new public school facilities" and substituted "subsection" for "section"; deleted (h)(1) and redesignated (h)(2) and (3) as (h)(1) and (2); substituted "commission shall approve a self-funded project that complies" for "project shall be approved upon compliance" in (h)(1); and, in (h)(2), inserted "school district may submit a" and deleted "may be submitted" following "project."

SUBCHAPTER 19 — ARKANSAS FISCAL ASSESSMENT AND ACCOUNTABILITY PROGRAM

SECTION.

6-20-1904. Indicators of fiscal distress.

6-20-1905. Notification and appeal.

6-20-1908. Fiscal distress plan.

SECTION.

6-20-1909. Department fiscal distress actions.

6-20-1910. State board actions.

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and

school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Gov-

error, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 600, § 24: Apr. 4, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that state oversight and intervention into distressed school districts is critical to the delivery of a constitutionally adequate

education; and that the changes made in this act are immediately necessary for the state to meet this constitutional obligation. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-20-1903. Definitions.

CASE NOTES

Removal of Superintendent.

Summary judgment was proper for a school district in a superintendent’s claim for compensation because the district established, as a matter of law, the defense of impossibility of performance based on the Arkansas Department of Education’s assumption of fiscal control of the district and removal of the superintendent under

subdivision (6) of this section. The Department’s recommendations as to staffing and the fiscal practices of the district were binding on the district per § 6-20-1908(f). *Smith v. Decatur Sch. Dist.*, 2011 Ark. App. 126, — S.W.3d — (2011), rehearing denied, — Ark. App. —, — S.W.3d —, 2011 Ark. App. LEXIS 244 (Mar. 30, 2011).

6-20-1904. Indicators of fiscal distress.

(a) A school district meeting any of the following criteria may be identified by the Department of Education to be a school district in fiscal distress upon final approval by the State Board of Education:

(1)(A) A declining balance determined to jeopardize the fiscal integrity of a school district.

(B) However, capital outlay expenditures for academic facilities from a school district balance shall not be used to put the school district in fiscal distress;

(2) An act or violation determined to jeopardize the fiscal integrity of a school district, including without limitation:

(A) Material failure to properly maintain school facilities;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or law;

(C) Material violation of local, state, or federal construction code provisions or law;

(D) Material state or federal audit exceptions or violations;

(E) Material failure to provide timely and accurate legally required financial reports to the department, the Division of Legislative Audit, the General Assembly, or the Internal Revenue Service;

(F) Insufficient funds to cover payroll, salary, employment benefits, or legal tax obligations;

(G) Material failure to meet legally binding minimum teacher salary schedule obligations;

(H) Material failure to comply with state law governing purchasing or bid requirements;

(I) Material default on any school district debt obligation;

(J) Material discrepancies between budgeted and actual school district expenditures;

(K) Material failure to comply with audit requirements; or

(L) Material failure to comply with any provision of the Arkansas Code that specifically places a school district in fiscal distress based on noncompliance; or

(3) Any other fiscal condition of a school district deemed to have a detrimental negative impact on the continuation of educational services by that school district.

(b)(1) By August 31 of each year, the department shall report to the superintendent of a school district if the department is aware that the school district has experienced two (2) or more indicators of fiscal distress in one (1) school year that the department deems to be at a nonmaterial level but that without intervention could place the district in fiscal distress.

(2) The superintendent of a school district shall report to the department if the superintendent is aware the school district has experienced two (2) or more indicators of fiscal distress in one (1) school year that the superintendent deems to be at a nonmaterial level but that without intervention could place the district in fiscal distress.

(3)(A) The department and the superintendent shall review all data related to the nonmaterial indicators of fiscal distress.

(B)(i) Within thirty (30) days of the department's determination that the school district may be experiencing fiscal distress at a nonmaterial level, the department shall provide a notice to the school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of fiscal distress that could jeopardize the fiscal integrity of the school district if not addressed; and

(b) Identifies the support available from the department to address each nonmaterial indicator of fiscal distress.

(ii) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of fiscal distress.

History. Acts 2003, No. 1467, § 18; 2007, No. 741, § 1; 2009, No. 798, § 1. **Amendments.** The 2009 amendment added (b).

6-20-1905. Notification and appeal.

(a)(1)(A)(i) The Department of Education shall provide written notice, via certified mail, return receipt requested, to the president of the school board of directors and the superintendent of each school district identified as being in fiscal distress.

(ii) The department shall provide the notice required under this subdivision (a)(1)(A) on or before March 30 of each year.

(B)(i) At any time after March 30, the department may identify a school district as being in fiscal distress if the department discovers that a fiscal condition of a school district negatively impacts the continuation of educational services by the school district.

(ii) The department immediately shall provide the same notice required under subdivision (a)(1)(A)(i) to the school district identified under this subdivision (a)(1)(B).

(b) Any school district identified in fiscal distress status may appeal to the State Board of Education by filing a written appeal with the office of the Commissioner of Education by certified mail, return receipt requested, within thirty (30) days of receipt of notice of identified fiscal distress status from the department.

(c) The state board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal from the school district.

(d) The written appeal shall state in clear terms the reason why the school district should not be classified as in fiscal distress.

(e) Notwithstanding any appeal rights in this subchapter, no appeal shall stay the department's authority to take action to protect the fiscal integrity of any school district identified as in fiscal distress.

(f) The decision of the state board shall be a final order, and there is no further right of appeal except that the school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2003, No. 1467, § 18; **Amendments.** The 2009 amendment 2007, No. 741, § 2; 2009, No. 1469, § 11. rewrote (a).

6-20-1908. Fiscal distress plan.

(a) Those school districts identified by the Department of Education as being in fiscal distress shall file with the department within ten (10) days after the final classification by the State Board of Education a written fiscal distress improvement plan to address any area in which the school district is experiencing fiscal distress as identified by the department.

(b) Each school district shall seek and obtain approval of its plan from the department and shall describe how the school district will remedy those areas in which the school district is experiencing fiscal distress and shall establish the time period by which the school district will remedy all criteria which placed the school district in fiscal distress status.

(c) A school district in fiscal distress may only petition the state board for removal from fiscal distress status after the department has certified in writing that the school district has corrected all criteria for being classified as in fiscal distress and has complied with all department recommendations and requirements for removal from fiscal distress.

(d) Except under § 6-20-1910(d), a school district shall not be allowed to remain in fiscal distress status for more than five (5) consecutive school years from the date that the school district was classified as being in fiscal distress status.

(e) Any school district classified as being in fiscal distress status shall be required to receive on-site technical evaluation and assistance from the department.

(f)(1) The department shall evaluate and make written recommendations to the district superintendent regarding staffing of the school district and fiscal practices of the school district.

(2) The written recommendations of the department shall be binding on the school district, the superintendent, and the school district board of directors.

(g) Every six (6) months, the department shall submit a written evaluation on the status of each school district in fiscal distress to the state board.

(h)(1) The department may petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in fiscal distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interests of students in the school district.

(2) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(i) Except under § 6-20-1910(d), the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in fiscal distress within five (5) consecutive school years of classification of fiscal distress status unless the state board, at its discretion, issues a written finding supported by a majority of the state board, explaining in detail that the school district could not remove itself from fiscal distress due to impossibility caused by external forces beyond the school district's control.

History. Acts 2003, No. 1467, § 18; 2013, No. 600, §§ 13, 14.

Amendments. The 2013 amendment, in (d), substituted "Except under § 6-20-1910(d), a school" for "No school" and "five

(5)" for "two (2)"; substituted "written recommendations" for "recommendations" twice in (f); and inserted "district" preceding "board" in (f)(2); and rewrote (i).

CASE NOTES

Binding Effect of Department Recommendations.

Summary judgment was proper for a school district in a superintendent's claim for compensation because the district established, as a matter of law, the defense of impossibility of performance based on the Arkansas Department of Education's assumption of fiscal control of the district

and removal of the superintendent under § 6-20-1903(6). The Department's recommendations as to staffing and the fiscal practices of the district were binding on the district per subsection (f) of this section. *Smith v. Decatur Sch. Dist.*, 2011 Ark. App. 126, — S.W.3d — (2011), rehearing denied, — Ark. App. —, — S.W.3d —, 2011 Ark. App. LEXIS 244 (Mar. 30, 2011).

6-20-1909. Department fiscal distress actions.

(a) In addressing school districts in fiscal distress, the Commissioner of Education may:

(1) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the school district and:

(A) Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the commissioner; and

(B) Compensate nondepartment agents operating the school district from school district funding;

(2) Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise recognized by law;

(3) Require the school district to operate without a board of directors under the supervision of the local superintendent or an individual or panel appointed by the commissioner;

(4) Waive the application of Arkansas law or the corresponding State Board of Education rules, with the exception of:

(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.; and

(B) The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.;

(5) Petition the state board for the annexation, consolidation, or reconstitution of the school district;

(6) In the absence of a school district board of directors, assume all authority of the board of directors as designated by the state board as may be necessary for the day-to-day governance of the school district;

(7)(A) Return the administration of the school district to the former board of directors or to a newly elected board of directors if:

(i) The Department of Education certifies in writing to the state board and to the school district that the school district has corrected all issues that caused the classification of fiscal distress; and

(ii) The state board determines the school district has corrected all issues that caused the classification of fiscal distress.

(B) If the commissioner calls for an election of a new school district board of directors, the school district shall reimburse the county

board of election commissioners for election costs as otherwise required by law;

(8) Otherwise reconstitute the school district; or

(9) Take any other action allowed by law that is deemed necessary to assist a school district in removing the classification of fiscal distress.

(b) The department may impose various reporting requirements on the school district.

(c) The department shall monitor the fiscal operations and accounts of the school district.

(d) The department shall require school district staff and employees to obtain fiscal instruction or training in areas of fiscal concern for the school district.

History. Acts 2003, No. 1467, § 18; **Amendments.** The 2013 amendment rewrote (a).
2013, No. 600, § 15.

6-20-1910. State board actions.

(a) After a public hearing, the State Board of Education shall consolidate, annex, or reconstitute the school district in fiscal distress to another school district or school districts upon a majority vote of a quorum of the members of the state board as permitted or required by this subchapter.

(b) The state board has exclusive jurisdiction to determine the boundary lines of the receiving or resulting school district and to allocate assets and liabilities of the school district.

(c) The decision of the state board shall be final with no further right of appeal except that a school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) If the Commissioner of Education assumes authority over a public school district in fiscal distress under subsection (a) of this section, the state board may pursue the following process for returning a public school district to the local control of its residents:

(1) During the second school year following a school district's classification as being in fiscal distress status, the state board shall determine the extent of the school district's progress toward correcting all issues that caused the classification of fiscal distress;

(2)(A) If the state board determines that sufficient progress has been made by a school district toward correcting all issues that caused the classification of fiscal distress, but the school district has not yet resolved all issues that caused the classification of fiscal distress, the commissioner, with the approval of the state board, may appoint a community advisory board of either five (5) or seven (7) members to serve under the supervision and direction of the commissioner.

(B) The members of the community advisory board shall be residents of the school district and shall serve on a voluntary basis without compensation.

(C) The Department of Education shall cause to be provided to the community advisory board technical assistance and training in, at a minimum, the areas required in § 6-13-629.

(D) The duties of the community advisory board include without limitation:

(i) Meeting monthly during a regularly scheduled public meeting with the state-appointed administrator regarding the progress of the public school or school district toward correcting all issues that caused the classification of fiscal distress;

(ii) Seeking community input from the patrons of the school district regarding the progress of the public school or school district toward correcting all issues that caused the classification of fiscal distress;

(iii) Conducting hearings and making recommendations to the commissioner regarding personnel and student discipline matters under the appropriate district policies;

(iv) Working to build community capacity for the continued support of the school district; and

(v) Submitting quarterly reports to the commissioner and the state board regarding the progress of the public school or school district toward correcting all issues that caused the classification of fiscal distress.

(E) The members of the community advisory board shall serve at the pleasure of the commissioner until:

(i) The school district is returned to local control and a permanent board of directors is elected and qualified; or

(ii) The state board annexes, consolidates, or reconstitutes the school district under this section or under another provision of law;

(3)(A) By April 1 of each year following the appointment of a community advisory board under subdivision (d)(2) of this section, the state board shall determine the extent of the school district's progress toward correcting all issues that caused the classification of fiscal distress and shall:

(i) Allow the community advisory board to remain in place for one (1) additional year;

(ii) Return the school district to local control by calling for the election of a newly elected board of directors if:

(a) The department certifies in writing to the state board and to the school district that the school district has corrected all criteria for being placed into fiscal distress; and

(b) The state board determines the school district has corrected all criteria for being placed into fiscal distress; or

(iii) Annex, consolidate, or reconstitute the school district pursuant to this title.

(B) If the state board or commissioner calls for an election of a new school district board of directors, the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(4)(A) If the state board calls for an election of a new school district board of directors pursuant to subdivision (d)(3)(A)(ii) of this section, the commissioner, with the approval of the state board, may appoint an interim board of directors to govern the school district until a permanent school district board of directors is elected and qualified.

(B) The interim board of directors shall consist of either five (5) or seven (7) members.

(C) The members of the interim board of directors shall be residents of the school district and otherwise eligible to serve as school board members under applicable law.

(D) The members of the interim board of directors shall serve on a voluntary basis without compensation.

(e)(1) If, by the end of the fifth school year following the school district's classification of fiscal distress status, the school district in fiscal distress has not corrected all issues that caused the classification of fiscal distress, the state board, after a public hearing, shall consolidate, annex, or reconstitute the school district under this section.

(2) The state board may grant additional time for a public school or school district to remove itself from fiscal distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from fiscal distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

(f) Nothing in this section shall be construed to prevent the department or the state board from taking any of the actions listed in § 6-20-1909 or this section at any time to address a school district in fiscal distress.

History. Acts 2003, No. 1467, § 18; 2013, No. 600, § 16.

Amendments. The 2013 amendment added (d) through (f).

SUBCHAPTER 20 — TRACKING AND ACCOUNTING OF INTERSCHOOL ATHLETIC PROGRAM FUNDS

SECTION.

6-20-2002. Definitions.

6-20-2003. Reporting by local school districts.

SECTION.

6-20-2004. Regulations.

6-20-2002. Definitions.

As used in this subchapter:

(1) "Athletic expenditures" means all direct expenses related to interschool athletic programs, including without limitation:

(A) The proportion of salaries or supplemental pay for staff for or related to interschool athletic programs or organized physical activity courses as provided under § 6-16-137, or both;

(B) All fringe benefits, including without limitation medical and dental insurance, workers' compensation, pension plans, and any

other costs associated with employment of staff for interschool athletic programs;

(C) Travel, including bus-related operation and maintenance, to and from any interschool athletic program event for students, faculty, spirit groups, band, or patrons of the school district;

(D) Equipment;

(E) Meals;

(F) Supplies; and

(G) Medical expenses;

(2) "Classroom teacher" means an individual who is required to hold a teaching license from the Department of Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(3) "Interschool athletic program" means:

(A) Any athletic program that is organized primarily for the purpose of competing with other schools, public or private; or

(B) Any athletic program that is subject to regulation by the Arkansas Activities Association; and

(4) "State funds" means all money derived from state revenues, specifically including, but not limited to, distributions from the Department of Education Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2005, No. 2151, § 19; 2005, No. 2256, § 1; 2007, No. 255, § 1; 2013, No. 1358, § 1.

Amendments. The 2013 amendment substituted "including without limitation" for "prorated if necessary, including, but

not limited to" in (1); substituted "without limitation" for "but not limited to" in (1)(B); deleted subdivisions (1)(G), (1)(I) and (1)(J); and redesignated former subdivision (1)(H) as present subdivision (1)(G).

6-20-2003. Reporting by local school districts.

(a) During the appropriate Arkansas Public School Computer Network reporting cycle each year, a school district shall submit appropriate data to the Department of Education documenting the school district's total athletic expenditures paid from state funds.

(b) Annually, each school district shall submit as part of the budget of expenditures and receipts required under § 6-20-2202 a budget for the total athletic expenditures to be paid from state funds for the budgeted year.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2007, No. 255, § 2; 2013, No. 1358, § 2.

Amendments. The 2013 amendment rewrote this section.

6-20-2004. Regulations.

The State Board of Education may promulgate any rules necessary for the implementation of this subchapter.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 1; 2013, No. 1358, § 3. substituted “may” for “shall” and removed the (a) designation, and deleted (b).
Amendments. The 2013 amendment

SUBCHAPTER 21 — TRACKING AND ACCOUNTING OF INTERSCHOOL SCHOLASTIC ACTIVITY FUNDS

SECTION.

6-20-2102. Definitions.

6-20-2103. Reporting by school districts.

SECTION.

6-20-2104. Rules.

6-20-2102. Definitions.

As used in this subchapter:

(1) “Classroom teacher” means an individual who is required to hold a teaching license from the Department of Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual’s contracted time;

(2) “Interschool scholastic activities” means:

(A) Any interschool activity program that is outside the regular curriculum, excluding interschool athletic programs as defined by § 6-20-2002, which is organized primarily for the purpose of competing with other schools, public or private; or

(B) Any program or activity, excluding interschool athletic programs as defined by § 6-20-2002, which is subject to regulation by the Arkansas Activities Association;

(3) “Interschool scholastic activity expenditures” means all direct expenses related to interschool scholastic activities, including without limitation:

(A) Salaries or supplemental pay for staff for interschool scholastic activities, excluding salaries received for duties as a classroom teacher;

(B) All fringe benefits, including, but not limited to, medical and dental insurance, workers’ compensation, pension plans, and any other costs associated with employment of staff for interschool scholastic activities;

(C) Travel, including bus-related operation and maintenance;

(D) Equipment;

(E) Meals;

(F) Supplies; and

(G) Medical expenses; and

(4) “State funds” means all money derived from state revenues, specifically including, but not limited to, distributions from the Department of Education Public School Fund Account and ad valorem property taxes distributed to a public school or school district.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2; 2005, No. 2256, § 2; 2013, No. 1358, § 4. in (3), deleted “and indirect” following “direct” and substituted “including without limitation” for “prorated if necessary, including, but not limited to”; deleted “or

Amendments. The 2013 amendment,

organized physical activity courses as provided under § 6-16-137, or both" following "activities" in (3)(A); deleted subdivisions

(3)(G), (3)(I), and (3)(J); and redesignated former subdivision (3)(H) as present subdivision (3)(G).

6-20-2103. Reporting by school districts.

(a) During the appropriate Arkansas Public School Computer Network reporting cycle each year, a school district shall submit data to the Department of Education documenting the school district's total interschool scholastic activity expenditures paid from state funds.

(b) Annually, each school district shall submit as part of the budget of expenditures and receipts required under § 6-20-2202 a budget for the total interschool scholastic activity expenditures to be paid from state funds for the budgeted year.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2; 2013, No. 1358, § 5.

Amendments. The 2013 amendment rewrote this section.

6-20-2104. Rules.

The State Board of Education may promulgate any rules necessary for the implementation of this subchapter.

History. Acts 2003 (2nd Ex. Sess.), No. 52, § 2; 2013, No. 1358, § 6.

substituted "may" for "shall" and removed the (a) designation, and deleted (b).

Amendments. The 2013 amendment

SUBCHAPTER 22 — ARKANSAS EDUCATIONAL FINANCIAL ACCOUNTING AND REPORTING ACT OF 2004

SECTION.

6-20-2202. Budget and expenditure report.

6-20-2203. Uniform budget and accounting system required.

SECTION.

6-20-2206. Miscellaneous provisions.

6-20-2208. Monitoring of expenditures.

6-20-2209. [Repealed.]

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being imme-

diately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 701, § 6: Mar. 24, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the state has paid the Pulaski County School Districts over one billion dollars as required by the Pulaski County Desegregation Case

styled *Little Rock School District v. Pulaski County Special School District No. 1, et al*, No. LR-C-82-866; that the Attorney General and the Department of Education are examining the finances of the Pulaski County school districts to determine how those funds are utilized by the districts; that the accounting required by this act is an essential part of reaching a fiscally responsible end to the case; that the General Assembly's support for the efforts of the Attorney General and the department should be provided immediately because the continued funding under the existing settlement agreement without proper accounting and State oversight is detrimental

to the fiscal integrity of the three school districts and the State, and to the education of the students in the school districts. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-20-2202. Budget and expenditure report.

(a)(1) The board of directors of each school district, open-enrollment public charter school, and education service cooperative annually shall prepare a budget of expenditures and receipts that shall be filed with the Department of Education by September 30 of each year under this subchapter.

(2) Each budget shall be approved by the board of directors of each school district, open-enrollment public charter school, and education service cooperative at a legally held meeting and shall be signed by the president of the board of directors and the ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative. The budget shall contain the information and be prepared in an electronic format prescribed by the Department of Education governing financial accounting for Arkansas school districts, open-enrollment public charter schools, and education service cooperatives.

(3)(A) The electronic format required by the Department of Education shall be available for completion by school districts, open-enrollment public charter schools, and education service cooperatives not later than September 15 of each year.

(B) The Department of Education shall declare when the electronic format is accessible to school districts, open-enrollment public charter schools, and education service cooperatives via a Commissioner of Education's memo.

(b)(1)(A) Warrants or checks of a school district, open-enrollment public charter school, or education service cooperative issued after the date required by subsection (a) of this section shall be invalid unless a budget has been filed as required by this subchapter and in compliance with appropriate rules.

(B) The ex officio financial secretary of a school district, open-enrollment public charter school, or education service cooperative and his or her surety shall be liable for any warrants or checks

countersigned after the date required by subsection (a) of this section if a budget has not been filed.

(2) After the Department of Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives, distribution of all grants and aids from the state for which the school district, open-enrollment public charter school, or education service cooperative may be eligible shall be suspended until the requirements of this subchapter are met by the school districts, open-enrollment public charter schools, or education service cooperatives.

(c)(1)(A) School district, open-enrollment public charter school, and education service cooperative budgets filed pursuant to this section shall be reviewed by the auditors of the financial accountability office of the Department of Education to determine whether the requirements of state law and the rules of the State Board of Education regarding the use of school, open-enrollment public charter school, and education service cooperative funds and expenditure requirements are being met.

(B) The review and the determination shall be completed not later than February 15 of each year. If the auditors of the financial accountability office determine that the financial records are deficient, then the school district, open-enrollment public charter school, or education service cooperative shall be notified and shall have thirty (30) days to respond prior to suspension of the grants and aids.

(2) Upon approval by the auditors, copies of the approved budget shall be filed with the school district, the open-enrollment public charter school, the education service cooperative, the county treasurer if serving as school treasurer, and the Department of Education.

(d)(1)(A) The ex officio financial secretary of each school district, open-enrollment public charter school, and education service cooperative shall keep a record of the following information in a format required by the Department of Education:

(i) The daily expenditures and receipts of the school district, open-enrollment public charter school, or education service cooperative; and

(ii)(a) Information on fund balances maintained by the school district, open-enrollment public charter school, or education service cooperative, including, but not limited to, the:

(1) Sources of the funds maintained as fund balances, to the extent practicable;

(2) Reasons for maintaining, instead of spending, the fund balances;

(3)(A) Amount of funds transferred between various funds during the past year.

(B) The school district, open-enrollment public charter school, and education service cooperative shall identify the funds transferred between and the amount of funds transferred; and

(4) Amount of fund balances dedicated for the construction, maintenance, or repair of academic or athletic facilities.

(b) The Department of Education shall promulgate rules that require reporting of fund balances sufficient to verify whether funds allocated for educational purposes, including, but not limited to, student academic needs and the maintenance and operation of public school district facilities, are used for their intended purposes or retained by the school district in its fund balances.

(B)(i) An annual report summarizing the information required in subdivision (d)(1)(A) of this section in a format required by the Department of Education shall be filed by August 31 of each year with the Department of Education.

(ii) A final close must be performed in each school district's open-enrollment public charter school's or education service cooperative's applicable general ledger database no later than September 30, 2007, for the 2006-2007 school year and September 15 for each school year thereafter. The Arkansas Public School Computer Network shall ensure that proper controls are in place to prohibit changes to the aforementioned data after the final close has been performed.

(2) If the auditors of the financial accountability office of the Department of Education determine that the financial records of any school district, open-enrollment public charter school, or education service cooperative are not properly maintained or that the financial affairs of the school district, open-enrollment public charter school, or education service cooperative are not administered in accordance with state law or state board rules, grants and aids from the state to which the school district, open-enrollment public charter school, or education service cooperative may be entitled shall be withheld until it is determined that the fiscal records of the school district, open-enrollment public charter school, or education service cooperative are in order or that the financial affairs are being properly administered as established by statute or by rule promulgated by the state board, provided that the Department of Education has met all deadlines for providing information to school districts, open-enrollment public charter schools, or education service cooperatives.

(e)(1) The Department of Education may withhold state aid from any school district, open-enrollment public charter school, or education service cooperative that fails to file its budget or any other required report with the Department of Education by the deadline established by statute or by rule promulgated by the state board or by the due dates established by the Department of Education pursuant to subdivision (e)(2) of this section, provided that the Department of Education has met all deadlines for providing pertinent information to school districts, open-enrollment public charter schools, or education service cooperatives.

(2) The Department of Education shall submit a list of all required financial accountability reports along with due dates to each school district, open-enrollment public charter school, and education service cooperative by July 1 of each year.

(f) The state board shall promulgate the necessary rules to fully implement this section.

(g)(1) The Treasurer of State shall withhold the monthly distribution of county aid provided under § 19-5-602(c) from any county whose county official who is the preparer of the tax books fails to provide by March 15 of each calendar year information concerning the annual abstract of assessment that reflects the aggregate value of the real and personal property for each school district located wholly or in part in the county as follows:

(A) If the county is capable of providing the information electronically, then the information shall be provided to both the Department of Education and the Assessment Coordination Department; and

(B) If the county is not capable of providing the information electronically, then the information shall be provided only to the Assessment Coordination Department.

(2) The information transmitted to the Department of Education and the Assessment Coordination Department shall also include:

(A) The previous calendar year's property assessment that will be used for ad valorem tax collections in the current year; and

(B) The millage rates, which shall be listed by the type of millage, levied against that property assessment.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 77, §§ 1, 2; 2005, No. 730, § 1; 2006 (1st Ex. Sess.), No. 26, § 1; 2006 (1st Ex. Sess.), No. 27, § 1; 2006 (1st Ex. Sess.), No. 28, § 1; 2006 (1st Ex. Sess.), No. 29, § 1; 2007, No. 617, § 22; 2007, No. 858, § 1; 2009, No. 1469, §§ 12, 13; 2011, No. 989, § 72.

Amendments. The 2009 amendment rewrote (a)(1); and substituted "August 31" for "September 15" in (d)(1)(B)(i).

The 2011 amendment substituted "September 15" for "August 1" in (a)(3)(A).

CASE NOTES

Budget Not Deficient.

School districts did not submit deficient budgets because they included within their budgeted revenue the uniform rate of tax in excess of the foundation-funding amount. These funds had to be returned solely to the districts from which they

were derived, and any withholding of categorical funds from the school districts based on the allegedly deficient budget was erroneous. *Kimbrell v. McCleskey*, 2012 Ark. 443, — S.W.3d —, 2012 Ark. LEXIS 472 (Nov. 29, 2012).

6-20-2203. Uniform budget and accounting system required.

(a)(1) The State Board of Education shall adopt by rule a uniform budget and accounting system that shall be known as the "Arkansas Educational Financial Accounting and Reporting System".

(2) This system shall establish and implement the process and procedures for financial reporting as required by this subchapter for school districts, education service cooperatives, and open-enrollment public charter schools.

(3)(A) Pursuant to § 6-20-2207, the Department of Education shall establish and implement a uniform chart of accounts known as the "Arkansas Financial Accounting Handbook" or the "Arkansas Handbook".

(B) The Arkansas Handbook shall be incorporated by reference into the rules governing the Arkansas Educational Financial Accounting and Reporting System.

(C) However, the Arkansas Handbook shall be exempt from the rule-making process and procedures required pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(4) The rules shall be developed by the state board in cooperation with the department, representatives from the Arkansas Association of Educational Administrators, the Arkansas Association of School Business Officials, the Arkansas Education Association, the education service cooperatives, and the Legislative Joint Auditing Committee.

(b) To the extent necessary to comply with federal law, the terms and definitions contained in the Arkansas Handbook shall initially comply with Financial Accounting for Local and State School System, 2003 Edition (NCES 2004-318), and may thereafter be revised by the department as necessary to remain consistent and shall be used for valid comparisons of expenditures of schools, school districts, open-enrollment public charter schools, and education service cooperatives.

(c) In addition, the rules or the Arkansas Handbook shall include, but not be limited to:

(1) Categories to allow for the gathering of data on separate functions and programs;

(2) Categories and descriptions of expenditures that each public school or school district shall report on its annual school performance report authorized by the School Performance Report Act, § 6-15-1401 et seq. The reported expenditures shall include, but not be limited to, the following categories:

(A) Total expenditures;

(B) Instructional expenditures;

(C) Administrative expenditures;

(D) Extracurricular expenditures;

(E) Capital expenditures;

(F) Debt service expenditures; and

(G) Expenditures of court-ordered desegregation funding;

(3)(A) Categories and descriptions of public school and school district expenditures that allow for the gathering of data on separate functions and programs provided by law, including without limitation the following expenditures:

(i) Athletic expenditures;

(ii) Student transportation expenditures;

(iii) School district level administrative costs;

(iv) School level administrative costs;

(v) Instructional facilitators;

(vi) Supervisory aides;

(vii) Substitutes;

(viii) Property insurance; and

(ix) Expenditures of court-ordered desegregation funding.

(B) The department shall implement the expenditure categories in this subdivision (c)(3) beginning with the 2007-2008 school year;

(4)(A) Categories and descriptions of public school and school district expenditures that allow for the tracking of expenditures from the following sources of revenue:

- (i) Student growth;
- (ii) Declining enrollment;
- (iii) Special education catastrophic occurrences;
- (iv) Special education services;
- (v) Technology grants;
- (vi) Debt service funding supplement;
- (vii) General facilities funding;
- (viii) Distance learning;
- (ix) Gifted and talented; and
- (x) Court-ordered desegregation funding.

(B) The department shall complete a trial implementation of the revenue categories in subdivisions (c)(4)(A)(i) and (ii) of this section by the end of the 2007-2008 school year and fully implement all revenue categories in this subdivision (c)(4) beginning with the 2008-2009 school year;

(5)(A) Categories and descriptions of student management coding, including without limitation:

- (i) Number of students transported; and
- (ii) Daily route mileage.

(B) The department shall implement this subdivision (c)(5) beginning with the 2007-2008 school year;

(6)(A) Categories and descriptions of restricted fund balances that provide documentation of the purpose for the restriction.

(B) The department shall implement this subdivision (c)(6) beginning with the 2007-2008 school year;

(7) Categories and descriptions of expenditures that each education service cooperative shall report on its annual report authorized by law; and

(8)(A) Rules relating to computing error rates in coding and reporting financial information under the system and penalties to focus on areas needing improvement.

(B) The department shall implement this subdivision (c)(8) beginning with the 2007-2008 school year.

(d) The Arkansas Handbook shall contain appropriate format and codes for expenditures for education service cooperatives.

(e) The department shall have the authority to analyze and inspect the financial records of any school, open-enrollment public charter school, school district, or education service cooperative in order to verify that a school, school district, or education service cooperative is correctly and accurately reporting expenditures.

(f) By February 15 of each year, the department shall submit a report to the state board, the Governor, the interim Senate Committee on Education, and the interim House Committee on Education concerning public school and public school district expenditures required by law.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2007, No. 1006, § 1; 2011, No. 701, §§ 3-5.

Amendments. The 2011 amendment added (c)(2)(G), (c)(3)(A)(ix), and (c)(4)(A)(x).

6-20-2206. Miscellaneous provisions.

(a) If the Department of Education determines that an overpayment has been made to a school district, open-enrollment public charter school, or education service cooperative in any funding category authorized by law, the department is authorized to withhold the overpayment from future funding of the school district, open-enrollment public charter school, or education service cooperative and is authorized to transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made.

(b) Each school district, local education agency, open-enrollment public charter school, and education service cooperative shall prepare an annual statement of the financial conditions and transactions of the school district, open-enrollment public charter school, or education service cooperative as of June 30 of each year.

(c) In order for a school district, open-enrollment public charter school, or education service cooperative to be entitled to state aid as provided by law, each school district, open-enrollment public charter school, and education service cooperative shall satisfy the following requirements:

(1) Expenditures for any fiscal year shall not exceed the legal revenues for that year;

(2) The school district, open-enrollment public charter school, and education service cooperative shall maintain such records and make such reports relative to attendance, receipts, and disbursements and other reports as required by the rules of the State Board of Education;

(3) The school, school district, open-enrollment public charter school, and education service cooperative shall maintain proper financial records in accordance with the Arkansas Educational Accounting and Reporting System, which includes the Arkansas Financial Accounting Handbook, and any reports required pursuant to § 6-20-2202(e)(2);

(4) The school district, open-enrollment public charter school, and education service cooperative shall file annually with the state board a salary schedule for its licensed employees which recognizes a minimum level of training and experience. This schedule shall reflect the actual pay practices of the school district, open-enrollment public charter school, or education service cooperative, including all fringe benefits and supplemental salary schedules. Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form and shall be public records.

(B) Pupil attendance records shall be kept according to law and regulations on paper or electronic forms either furnished or approved by the department.

(C) Original pupil attendance records shall be kept on file in the office of the superintendent of schools after the school term is ended

for a period of three (3) years, and these records shall be available for monitoring purposes during any day of the school term by the teachers or other persons designated to keep attendance.

(d) School districts may not include the cost of substitute teachers, extended contracts for extracurricular activities, or supplementary pay for extracurricular activities in meeting the expenditures requirement for student classroom teacher salaries.

(e) Any licensed classroom teacher or administrator of a school, school district, open-enrollment public charter school, or education service cooperative that provides false expenditure information may have his or her license placed on probation, suspended, or revoked pursuant to rules promulgated by the state board.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2013, No. 1138, § 49. **Amendments.** The 2013 amendment substituted “licensed” for “certified” in (c)(4).

6-20-2208. Monitoring of expenditures.

(a)(1) The General Assembly determines that, although funds may be distributed to school districts under this subchapter, it is the duty and responsibility of the State of Arkansas to monitor such expenditures to ensure that each public school child in Arkansas is provided with an adequate education.

(2) The General Assembly further finds that a uniform system of accounting for and reporting expenditures is necessary to allow the state to monitor expenditures.

(b) Each school district shall ensure that funds distributed by the State of Arkansas to the district are utilized in an efficient manner in order to provide an adequate education.

(c) Each school district shall:

(1) Expend sums for teacher salaries in order to meet the requirements of Arkansas law;

(2)(A) Expend the sums allocated to the school district under § 6-20-2305(b) for salaries and other instructional aid components to benefit students in the special needs categories within the school district unless other expenditures are allowed by law or rule of the State Board of Education or the Department of Education.

(B) Further ensure that those sums are used to improve the educational opportunity of those children with a primary emphasis on improving each student’s proficiency;

(3) Expend other sums as may be allocated under this subchapter and as may be required by law in order to provide an equal opportunity for an adequate education;

(4) Ensure that sums appropriated by law and allocated to the school district are used to meet standards for accreditation and to provide the required curriculum for all students in the school district;

(5) Ensure that sums allocated for facilities or other capital needs are spent in accordance with law; and

(6) Expend state and local revenues on gifted and talented programs:

(A) In an amount equal to fifteen hundredths (0.15) of the foundation funding amount multiplied by five percent (5%) of the school district's average daily membership for the previous year; and

(B) Only upon gifted and talented programs in accordance with rules promulgated by the state board.

(d)(1) During the appropriate Arkansas public school computer network reporting cycle each year, each school district shall submit appropriate data to the department establishing the school district's compliance with this section.

(2) The data shall be timely, accurate, and in the format required by rules promulgated by the state board.

(3) The data reported shall reflect the expenditure of each category of additional education categories.

(4) Reports for each school district shall be developed by the department and transmitted to the Governor, the interim Senate Committee on Education, and the interim House Committee on Education.

History. Acts 2003 (2nd Ex. Sess.), No. 61, § 1; 2005, No. 730, § 1; 2009, No. 376, § 42.

in (c)(2)(A), substituted "§ 6-20-2305(b)" for "§ 6-20-2005(b)" and made a minor stylistic change.

Amendments. The 2009 amendment,

6-20-2209. [Repealed.]

Publisher's Notes. This section, concerning the study of improved reporting systems, was repealed by Acts 2013, No.

1138, § 50. The section was derived from Acts 2006 (1st Ex. Sess.), No. 28, § 2; 2006 (1st Ex. Sess.), No. 29, § 2.

SUBCHAPTER 23 — PUBLIC SCHOOL FUNDING ACT OF 2003

SECTION.

6-20-2303. Definitions.

6-20-2305. School funding.

6-20-2306. Department of Education to provide funding — Adjustments for overpayments.

SECTION.

6-20-2308. Calculation of miscellaneous funds.

Effective Dates. Acts 2009, No. 965, § 2: Apr. 6, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that accurate information is required to determine the correct funding for school districts; that variances in the distribution of excess commission payments to school districts can cause aberrations in revenue levels; and that this act is immediately necessary to ensure a school district receives all funding it is entitled to and is not penalized for irregularities in

the distribution of excess commission payments. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1186, § 2: Apr. 7, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that accurate information is required to determine the correct funding for school districts; that variances in the distribution of excess commission payments to school districts can cause aberrations in revenue levels; and that this act is immediately necessary to ensure a school district receives all funds it is entitled to and is not penalized for irregularities in the distribution of excess commission payments. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1397, § 10: Apr. 9, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state's public school children receive an equal opportunity for an adequate education; that the timely and accurate collection and reporting by counties of the proceeds generated from the uniform rate of tax is necessary to ensure educational adequacy; that the Treasurer of State, the Department of Education, the Assessment Coordination Department, and the counties need to implement the reporting process required under this act so that timely and accurate calculations for public school funding will be made before the beginning of the 2009-2010 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2009, No. 1450, § 2: July 1, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the obligation of the state to provide a substantially equal opportunity for an adequate education to the public students of this state; that public school district miscellaneous funds as defined by § 6-20-2303 are part of the foundation funding the General Assembly has determined is necessary to provide an adequate education; that the calculation of miscellaneous funds as amended by Senate Bill No. 814 of 2009 will cause some school districts to receive less state foundation funding aid than is needed for the 2008-2009 school year; and that this act is immediately necessary to ensure that the method of calculating miscellaneous funds used by the Department of Education will result in the correct calculation of the amount of state foundation funding aid to school districts for the 2008-2009 school year. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2009."

Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found

and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 1039, § 5: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to public schools and school districts; and that this act is immediately necessary so that public schools and school districts will receive the amount of funding provided under this act for the 2011-2012 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2011, No. 1118, § 5: July 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state's public school children receive an equal opportunity for an adequate education; that to ensure that opportunity, it is essential that the state's public schools and education service cooperatives operate effective alternative learning environments; that the immediate effectiveness of this bill is necessary

for the implementation of the funding changes and for the public schools and education service cooperatives to operate effective alternative learning environments under this bill throughout the state by the 2011-2012 school year; and that any delay in the effective date of this act could work irreparable harm to the quality of education available to students who are educated in alternative learning environments in this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011."

Acts 2013, No. 557, § 3: Apr. 2, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Constitution requires the State of Arkansas to provide a general, suitable, and efficient system of public education that provides a substantially equal opportunity for an adequate education to all public school students; that school districts prepare their annual budgets based upon the distribution of funds under § 6-20-2305(a)(4); and that, in order to ensure that a substantially equal opportunity for an adequate education is provided, this act is immediately necessary so that a school district may prepare its budgets for the 2013-2014 school year based upon the new law. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 969, § 12: Apr. 8, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the professional development of public school teachers and administrators is critical to the delivery of a constitutionally adequate education; and that this act is immediately necessary for school districts and

educators to prepare for the professional development requirements needed for the 2013-2014 school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 1467, § 7: July 1, 2013. Emergency clause provided: "It is found and determined by the General Assembly

of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are necessary to ensure that proper funding is provided to public schools and school districts; and that this act is immediately necessary so that public schools and school districts will receive the amount of funding provided under this act for the 2013-2014 school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2013."

6-20-2303. Definitions.

As used in this subchapter:

(1) "Additional education categories" means state funds distributed to school districts for alternative learning environments, English-language learners, national school lunch students, and professional development;

(2) "Alternative learning environment" means a student intervention program in compliance with § 6-48-101 et seq. that seeks to eliminate traditional barriers to learning for students;

(3)(A) "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) In those instances in which the average daily membership for less than three (3) quarters is specified, the number of days used in the calculation shall be the days in the specified period of time.

(C) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who:

(a) Reside within the boundaries of the school district;

(b) Are enrolled in a public school operated by the school district; and

(c) Are enrolled in a curriculum that fulfills the requirements established by the State Board of Education under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(ii)(a) Students who reside within the boundaries of the school district but due to geographic barriers attend school out-of-state under a tuition agreement.

(b) This subdivision (3)(C)(ii) shall apply even if the students enrolled in an out-of-state school are not enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(iii) Legally transferred students living outside the school district but are:

(a) Attending a public school in the school district under a provision of the Arkansas Code; and

(b) Are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(iv) Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts; or

(v) Students who are eligible to attend and who reside within the boundaries of a school district and are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program.

(D)(i) Except for those circumstances otherwise allowed by law or rule, any student who is absent from daily attendance for more than ten (10) consecutive school days shall be dropped from the attendance records of the school, school district, or open-enrollment public charter school.

(ii) Any student who fails to attend school by the tenth regular school day of the semester shall be retroactively dropped from the first day of the school semester.

(E)(i) Except as otherwise provided by law, a public school district or open-enrollment public charter school that teaches a distance learning course to one (1) or more home school or private school students shall be eligible for an amount equal to one-sixth ($\frac{1}{6}$) of the state foundation funding amount per distance learning course for each private school student or home school student who is:

(a) Residing within the school district where the public school or open-enrollment public charter school is located; and

(b) Physically attending the distance learning course or courses on the campus of the public school district or open-enrollment public charter school.

(ii) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership regardless of the number of distance learning courses received by a particular home school or private school student;

(4) "Classroom teacher" means:

(A) An individual who is required to hold a teaching license from the Department of Education and who is engaged directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time;

(B) A guidance counselor; or

(C) A librarian;

(5) "English-language learners" means students identified by the state board as not proficient in the English language based upon approved English proficiency assessment instruments administered annually in the fall of the current school year, which assessments measure oral, reading, and writing proficiency;

(6) "Foundation funding" means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student;

(7) "Gifted and talented programs" means academic curricula, courses, and options designed to improve educational opportunities for gifted and talented students pursuant to guidelines adopted by the state board in accordance with § 6-42-106;

(8) "Gifted and talented students" means those students who have been identified as meeting the criteria of the gifted program approval standards established by the state board;

(9) "Legal revenues" means those revenues received or cash balances carried forward by a school district and used to make payments from:

(A)(i) The teacher's salary fund, which means the set of accounts used to record the receipts and expenditures for payment of salaries for licensed personnel, licensed substitutes, tuition, and fringe benefits as defined by § 6-17-908.

(ii) Licensed personnel salaries from federal programs are excluded;

(B) The operating fund, which means the set of accounts used to record the receipts and expenditures for current operating expenses other than those that relate to the purposes set out for other funds; and

(C) The debt service fund, which means the set of accounts used to record local tax receipts and expenditures for the retirement of commercially bonded debt;

(10) "Millage rate" means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904 for the tax year used in a calculation made under this subchapter;

(11) "Miscellaneous funds" means funds received by a school district:

(A) From federal forest reserves, federal grazing rights, federal mineral rights, federal impact aid, federal flood control, wildlife refuge funds, and severance taxes; and

(B) In lieu of taxes, and local sales and use taxes dedicated to education under § 26-74-201 et seq., § 26-74-301 et seq., § 26-75-301 et seq., and the Local Government Bond Act of 1985, § 14-164-301 et seq.;

(12)(A) "National school lunch students" means those students or the percentage of enrolled students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the National School Lunch Act as determined on October 1 of each

previous school year and submitted to the Department of Education, unless the school district is identified by the Department of Education as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. § 245.9.

(B) If the school district is participating under 42 U.S.C. § 1759a, then for purposes of funding under § 6-20-2305(b), such a school district's annual percentage of national school lunch students shall be equal to the percentage submitted in the base year, which means the last school year for which eligibility determinations were made and meal counts were taken by type;

(13) "Net revenues" means actual revenues generated from ad valorem taxes and distributed to a school district multiplied by the ratio derived from dividing the uniform rate of tax by the total millage rate of the school district;

(14) "Previous year" or "previous school year" means the school year immediately preceding the school year or fiscal year in which funds are allocated;

(15)(A) "Professional development" has the same meaning as the meaning given to the term under § 6-17-704.

(B) Professional development shall result in individual, school-wide, and systemwide improvement designed to ensure that all students demonstrate proficiency in the state academic standards;

(16) "Quarterly average daily membership" means the average daily membership for one (1) quarter of a school year used for calculating student growth funding and as determined by rule established by the Department of Education;

(17)(A) "Revenues" means the proceeds generated from ad valorem taxes and distributed to a school district by a county treasurer from January 1 through December 31 of the calendar year immediately preceding the beginning of the current school year, including:

(i) The amount of the final distribution of ad valorem taxes to a school district as shown on the final tax settlement of the county under § 26-39-402 for the calendar year immediately preceding the beginning of the current school year;

(ii)(a) Delinquent ad valorem taxes distributed to a school district in the calendar year immediately preceding the beginning of the current school year.

(b) Delinquent ad valorem taxes include the penalties and interest that are distributable to a school district under existing law;

(iii) The actual amount of homestead tax credit distributed to a school district in the calendar year immediately preceding the beginning of the current school year;

(iv) Excess commissions distributed to a school district in the calendar year immediately preceding the beginning of the current school year;

(v) Interest earned on any tax funds held in trust and distributed to a school district in the calendar year immediately preceding the beginning of the current school year;

(vi) Ad valorem tax proceeds from land redemptions distributed to a school district in the calendar year immediately preceding the beginning of the current school year; and

(vii) A subtraction of all costs and commissions authorized by law relating to the collection of ad valorem taxes that the county deducted from distributions to a school district in the calendar year immediately preceding the beginning of the current school year;

(18) "School district" means a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of ad valorem property taxes under Title 26 of the Arkansas Code, which board of directors conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and this title;

(19) "Secondary vocational area center" means a public secondary vocational institution organized for the specific purpose of educating high school students in specific occupational or vocational areas and serving students from more than one (1) participating school district;

(20) "Special education catastrophic occurrences" means individual cases in which special education and related services required by the individualized education program of a particular student with disabilities are unduly expensive, extraordinary, or beyond the routine and normal costs associated with special education and related services provided by a school district and funding is pursuant to rules promulgated by the state board;

(21) "State foundation funding aid" means the amount of state financial aid provided to a school district under § 6-20-2305(a)(1);

(22) "Student growth funding" means the amount of state financial aid provided to each school district from funds made available for the growth in the average daily membership for the school district;

(23) "Teachers of the gifted and talented" means individuals certified by the state board to teach gifted and talented students;

(24) "Technology" means any equipment for instructional purposes that is electronic in nature, including, but not limited to, computer hardware, computer software, Internet connectivity, and distance learning; and

(25) "Uniform rate of tax" means a uniform rate of ad valorem property tax of twenty-five (25) mills to be levied on the assessed value of all taxable real, personal, utility, and regulated carrier property in the state to be used solely for the maintenance and operation of the public schools as required by Arkansas Constitution, Article 14, § 3, as amended by Arkansas Constitution, Amendments 11, 40, and 74.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 1; 2007, No. 272, § 2; 2007, No. 461, § 1; 2007, No. 825, § 1; 2009, No. 154, § 1; 2009, No. 1397, §§ 1-3; 2009, No. 1450, § 1; 2009, No. 1469, §§ 14, 15; 2011, No. 989, § 73; 2011, No. 1118, § 3; 2013, No. 322, §§ 1, 2;

2013, No. 557, § 1; 2013, No. 969, § 10; 2013, No. 1138, § 51.

A.C.R.C. Notes. Acts 2013, No. 322, § 6, provided: "For the 2014-2015 school fiscal year only, as used in this act the phrase 'calendar year immediately preceding the beginning of the current school

fiscal year' means the 2012 calendar year."

Amendments. The 2009 amendment by No. 154 redesignated (11)(A); inserted (11)(A)(ii); and made related and stylistic changes.

The 2009 amendment by No. 1397 added "for the tax year used in a calculation made under this subchapter" in (10); and rewrote (13) and (17).

The 2009 amendment by No. 1450 inserted (11)(C).

The 2009 amendment by No. 1469 rewrote (3)(C) and (11).

The 2011 amendment by No. 989 inserted present (3)(C)(ii) and redesignated the remaining subdivisions accordingly.

The 2011 amendment by No. 1118 substituted "§ 6-48-101 et seq." for "§ 6-18-508 and 6-18-509" in present (2); and deleted former (2)(B).

The 2013 amendment by No. 322 rewrote (11); and substituted "under § 6-20-2305(a)(1)" for "and computed as the difference between the foundation funding amount established by the General As-

sembly and the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus the miscellaneous funds of the school district under" in (21).

The 2013 amendment by No. 557 substituted "under § 6-20-2305(a)(4)" for "and computed as the difference between the foundation funding amount established by the General Assembly and the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus the miscellaneous funds of the school district" in (21).

The 2013 amendment by No. 969 substituted "has the same meaning as the meaning given to the term under § 6-17-704" for "means a coordinated set of planned learning activities for teachers and administrators that are standards based" in (15)(A).

The 2013 amendment by No. 1138 substituted "licensed" for "certified" throughout (9)(A).

6-20-2305. School funding.

(a)(1)(A) For each school year, each school district shall receive state foundation funding aid computed as the foundation funding amount under subdivision (a)(2) of this section less the sum of:

(i) Ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district; and

(ii) An amount of miscellaneous funds of the school district calculated under § 6-20-2308.

(B) The Department of Education shall distribute state foundation funding aid to each school district in eleven (11) equal monthly payments.

(2)(A) For the 2013-2014 school year, the foundation funding amount is equal to six thousand three hundred ninety-three dollars (\$6,393) multiplied by the school district's average daily membership for the previous school year.

(B) For the 2014-2015 school year and each school year thereafter, the foundation funding amount is equal to six thousand five hundred twenty-one dollars (\$6,521) multiplied by the school district's average daily membership for the previous school year.

(3)(A) A school district that has experienced a decline in average daily membership over the two (2) immediately preceding school years shall receive:

(i) Declining enrollment funding equal to the difference between the average of the two (2) immediately preceding years' average daily memberships and the average daily membership for the previous

school year multiplied by the amount of foundation funding set forth in subdivision (a)(2) of this section; or

(ii) Special needs isolated funding under § 6-20-604.

(B) Any funding appropriated and available for declining enrollment funding under subdivision (a)(3)(A)(i) of this section or special needs isolated funding under § 6-20-604 that is not distributed under subdivision (a)(3)(A) of this section shall be prorated and distributed equally per average lost student to school districts that meet the qualifications for both declining enrollment funding under subsection (a)(3)(A)(i) of this section and special needs isolated funding under § 6-20-604.

(C) No school district shall receive both declining enrollment funding under subdivision (a)(3)(A)(i) of this section and student growth funding under subsection (c) of this section.

(4)(A)(i) Except as provided in subdivisions (a)(4)(C) and (D) of this section, by the end of each school fiscal year, for a school district whose net revenues are less than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Department of Education shall distribute to the school district the difference between:

(a) The net revenues distributed to the school district as reported under § 26-80-101(b)(4)(A)(ii) for the calendar year immediately preceding the current school year; and

(b) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(ii) The Department of Education may distribute to the school district a lesser amount than required under subdivisions (a)(4)(A)(i)(a) and (b) of this section if after the lesser amount is distributed the school district will receive the foundation funding amount under § 6-20-2305(a).

(B) For a school district whose net revenues are more than the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district, the Department of Education, under the authority of § 6-20-2306, shall recoup from the school district an amount equal to the difference between:

(i) The net revenues of the school district; and

(ii) The sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district.

(C) The Department of Education shall not distribute to a school district the funds under subdivision (a)(4)(A)(i) of this section if, regardless of the school district's tax collection rate, the school district's net revenues meet or exceed the foundation funding amount set forth in § 6-20-2305(a).

(D)(i) A school district shall submit annually to the Department of Education data to verify the timely receipt of revenues applicable to the required ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district under § 26-80-101(b)(4)(A)(ii).

(ii)(a) The Department of Education may adjust data appropriately if it determines that irregular distributions by a county treasurer of excess commissions cause a school district's property tax collection rate from the uniform rate of tax to exceed ninety-eight percent (98%).

(b) The Department of Education may adjust the uniform rate of tax from an irregular distribution to an amount not in excess of ninety-eight percent (98%) and apply the excess distribution amount the following school year.

(iii) Evidence of overlapping revenue reporting or irregular distributions shall be provided in the form required by the Department of Education.

(b)(1) In addition to state foundation funding aid, each school district shall receive funding for additional education categories as provided in subdivisions (b)(2)-(5) of this section.

(2)(A)(i) For the 2013-2014 school year, alternative learning environment funding shall be four thousand three hundred five dollars (\$4,305) multiplied by the number of identified alternative learning environment students enrolled during the previous school year.

(ii) For the 2014-2015 school year and each school year thereafter, alternative learning environment funding shall be four thousand three hundred eighty-three dollars (\$4,383) multiplied by the number of identified alternative learning environment students enrolled during the previous school year.

(iii) Funding for students in alternative learning environments shall be distributed based on rules promulgated by the State Board of Education.

(B)(i) Beginning with the 2007-2008 school year, secondary vocational area center funding shall be three thousand two hundred fifty dollars (\$3,250) multiplied by the number of students enrolled in a secondary vocational area center during the previous school year.

(ii) Funding for students in secondary vocational area centers shall be distributed based on rules promulgated by the State Board of Career Education.

(3)(A) For the 2013-2014 school year, funding for students who are identified as English-language learners shall be three hundred eleven dollars (\$311) for each identified English-language learner.

(B) For the 2014-2015 school year and each school year thereafter, funding for students who are identified as English-language learners shall be three hundred seventeen dollars (\$317) for each identified English-language learner.

(C) Funding for English-language learners shall be distributed to school districts for students who have been identified as not proficient in the English language based upon a state-approved English proficiency assessment instrument.

(D) Funds allocated for English-language learners to school districts under this subchapter shall be expended only for eligible activities as identified in current rules promulgated by the State

Board of Education and are a supplement to funding for national school lunch students provided in subdivision (b)(4) of this section.

(4)(A) National school lunch state categorical funding for each identified national school lunch student shall be as follows:

(i) For a school district in which ninety percent (90%) or greater of the previous school year's enrolled students are national school lunch students, the amount of per-student national school lunch state categorical funding is one thousand five hundred forty-nine dollars (\$1,549);

(ii) For school districts in which at least seventy percent (70%) but less than ninety percent (90%) of the previous school year's enrolled students are national school lunch students, the amount of per-student national school lunch state categorical funding is one thousand thirty-three dollars (\$1,033); and

(iii) For school districts in which less than seventy percent (70%) of the previous school year's enrolled students are national school lunch students, the amount of per-student national school lunch state categorical funding is five hundred seventeen dollars (\$517).

(B)(i)(a) Except as provided under subdivision (b)(4)(B)(i)(c) of this section, national school lunch state categorical funding under this subdivision (b)(4) shall be based on the number of national school lunch students for the immediately preceding school year determined under § 6-20-2303(12)(A).

(b) If the school district is participating under 42 U.S.C. § 1759a, funding under this subdivision (b)(4) is based on the percentage determined in § 6-20-2303(12)(B) multiplied by the number of enrolled students for the immediately preceding school year.

(c) The per-student national school lunch state categorical funding for an open-enrollment public charter school shall be based upon the current school year enrollment:

(1) In the initial year of operation for an open-enrollment public charter school; or

(2) In a year in which an open-enrollment public charter school adds a grade.

(ii)(a) If a school district will receive in the current school year national school lunch state categorical funding under subdivision (b)(4)(A) of this section that is based on a different per-student amount of national school lunch state categorical funding than the school district received in the immediately preceding school year, due to a percentage change in national school lunch students, the department shall adjust the funding to the school district in a transitional three-year period.

(b) The amount of national school lunch state categorical funding under this subdivision (b)(4)(B)(ii) shall be increased or decreased in each year of a three-year transition period by one-third ($\frac{1}{3}$) of the difference between the amount of national school lunch state categorical funding per student for the current year and the amount of national school lunch state categorical funding per student for the

immediately preceding year, adjusted for changes to the funding rates in § 6-20-2305(b)(4)(A).

(iii)(a) The Department of Education shall establish rules to implement the transitional national school lunch state categorical funding provided in subdivision (b)(4)(B)(ii) of this section.

(b) The rules shall include the methods of transition for a school district that:

(1) Experiences a decrease in the amount of national school lunch state categorical funding per student under subdivision (b)(4)(A) of this section;

(2) Experiences an increase in the amount of national school lunch state categorical funding per student under subdivision (b)(4)(A) of this section; or

(3) Within a three-year transition period, experiences both a decrease and an increase in the amount of national school lunch state categorical funding per student under subdivision (b)(4)(A) of this section.

(iv) Under no circumstances shall a school district be entitled to receive more or less funding as a result of the transitional process than the school district is otherwise entitled to receive under this subdivision (b)(4) based on the school district's national school lunch student population as a percentage of the school district's entire student population.

(v)(a) A school district that has experienced a significant growth in enrolled students in the previous three (3) years shall receive funding for the expected increase in the number of national school lunch students based on the expected increase in enrolled students based on the levels of funding provided in this section for national school lunch students.

(b) The State Board of Education shall establish rules to be used by the Department of Education to determine:

(1) The amount of growth necessary to qualify as significant growth;

(2) The expected increase in the number of national school lunch students based on the expected increase in enrolled students; and

(3) Which school districts have experienced a significant growth in enrolled students as necessary to qualify for funding under this subdivision (b)(4)(B)(v).

(c) The Department of Education shall not be required to adjust or fund a school district's national school lunch students based on the current year's number of national school lunch students enrolled in the school district or the average growth of students in the school district.

(C)(i)(a) The State Board of Education shall establish by rule a list of approved programs and purposes for which funds allocated under this subdivision (b)(4) may be expended.

(b) School districts shall expend funds allocated under this subdivision (b)(4) only on the programs or purposes on the State Board of

Education's list of approved programs and purposes for which funds allocated under this subdivision (b)(4) may be expended, which shall include, but are not limited to:

(1) Classroom teachers, provided that the school district meets the minimum salary schedule in § 6-17-2403 without using funds provided under this subdivision (b)(4) and that those teachers are used for the purposes delineated in this subdivision (b)(4);

(2) Before-school academic programs and after-school academic programs, including transportation to and from the programs;

(3) Prekindergarten programs coordinated by the Department of Human Services;

(4) Tutors, teachers' aides, counselors, social workers, nurses, and curriculum specialists;

(5) Parent education;

(6) Summer programs;

(7) Early intervention programs;

(8) Materials, supplies, and equipment, including technology used in approved programs or for approved purposes;

(9) Federal child nutrition programs, to the extent necessary to provide school meals without charge to all students under the United States Department of Agriculture Special Assistance Alternative "Provision 2" program under 42 U.S.C. § 1759a, as it exists on July 1, 2011;

(10) Federal child nutrition programs, to the extent necessary to provide school meals without charge to students otherwise eligible for reduced-price meals under the United States Department of Agriculture's National School Lunch Program or School Breakfast Program;

(11) Expenses directly related to funding a longer school day;

(12) Expenses directly related to funding a longer school year;

(13) Partnering with local institutions of higher education to remediate students while those students are still in high school so that the students are college and career ready upon graduation from high school;

(14) Teach For America professional development;

(15) Implementing components of the Arkansas Advanced Initiative for Math and Science;

(16) College and Career Coaches, as administered by the Department of Career Education; and

(17) Implementing a school-wide evidence-based program intended to close achievement gaps with an arts-infused curriculum.

(ii) School districts that have met the needs of students for whom the funding is provided for additional educational categories under this subsection and that have excess national school lunch student categorical funds provided under this subdivision (b)(4) may use the excess national school lunch student categorical funds to supplement all classroom teacher salaries under the following conditions:

(a) The school district shall not use any portion of the national school lunch student categorical funds that are carry forward or reserve funds to supplement classroom teacher salaries;

(b) The school district shall meet the minimum teacher salary schedule under § 6-17-2403 without using national school lunch student categorical funds;

(c) The school district shall comply with the Standards for Accreditation of Arkansas Public Schools and School Districts established under The Quality Education Act of 2003, § 6-15-201 et seq., and the Arkansas Fiscal Assessment and Accountability Program under § 6-20-1901 et seq. without using national school lunch student categorical funds; and

(d) The school district shall agree that it shall not allocate or use any excess national school lunch student categorical funds in any manner except as a bonus to the salary of classroom teachers.

(iii) The school district shall include with its comprehensive school improvement plan a written detailed statement concerning how the school district will use its excess national school lunch categorical funds each school year and explaining in detail the amount of funds and percent of total funds to be used to supplement all classroom teacher salaries as allowed in subdivision (b)(4)(C)(ii) of this section.

(iv)(a) Upon review of the school district's comprehensive school improvement plan, if the Commissioner of Education determines that the school district has met the needs of students in the school district for whom the funding for additional educational categories this subsection is provided, has met the requirements of subdivisions (b)(4)(C)(ii) and (iii) of this section, and has prudently managed its resources, the commissioner shall give written approval of the detailed planned flexible use of excess national school lunch student categorical funds provided to the school district.

(b) The school district shall not use its excess national school lunch categorical funds for classroom teacher salaries as provided in subdivision (b)(4)(C)(ii) of this section unless:

(1) The commissioner provides the written approval required under subdivision (b)(4)(C)(iv)(a) of this section; and

(2) Funds allocated under this subdivision (b)(4) are available.

(v) The excess national school lunch student categorical funds used to supplement the salary of a classroom teacher shall only be used as a nonrecurring bonus to a classroom teacher's salary for any given school year and shall not be considered a permanent obligation under the school district's teacher salary schedule or as contract obligations of any classroom teacher or employee of the school district.

(vi) Notwithstanding any other provision of law, if the Department of Education determines that a school district's expenditure of funds allocated under this subdivision (b)(4) would result in the school district's losing funding under any federal law, then the funds allocated to a school district under this subdivision (b)(4) may be expended for other academic programs or salaries.

(vii) The Department of Education may direct that a school district expend available funds on specified programs under subdivision (b)(4)(C)(i) of this section.

(viii)(a) By September 15 of each school year, a school district shall submit to the Department of Education a report for the immediately preceding school year listing each program upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Department of Education on the use of funds allocated under this subdivision (b)(4).

(b) The Department of Education shall develop appropriate reporting forms for use by school districts to comply with subdivision (b)(4)(C)(viii) of this section.

(ix) Beginning with the 2007-2008 school year and each school year thereafter, any school district that used or applied restricted national school lunch student categorical funds as a supplement for salaries of classroom teachers in a school district during the 2006-2007 school year under § 6-20-2305 (b)(4)(C)(i)(b) [repealed] shall either:

(a) Remove the use of all national school lunch student categorical funds immediately as a supplement to classroom teacher salaries; or

(b) Begin the process of removing the use or application of national school lunch student categorical funds as part of an obligated salary schedule in the following manner:

(1) A school district shall reduce each current school year by twenty percent (20%) the amount of national school lunch student categorical funds received and used in the prior school year by the school district as a supplement to classroom teacher salaries and shall continue this reduction in the application of national school lunch student categorical funds as a supplement to classroom teacher salaries until the school district has no more than twenty percent (20%) of the total of any current year of all national school lunch student categorical funds received by a school district applied and used as a supplement to classroom teacher salaries for a current school year;

(2) No school district shall be allowed to use or consider reserve or carry forward national school lunch student categorical funds as a supplement to classroom teacher salaries;

(3) The school district shall meet the minimum teacher salary schedule under § 6-17-2403 without using national school lunch student categorical funds;

(4) The school district shall comply with the Standards for Accreditation of Arkansas Public Schools and School Districts established under The Quality Education Act of 2003, § 6-15-201 et seq., without using national school lunch categorical funds;

(5) The school district shall include with its comprehensive school improvement plan a written detailed narrative or plan concerning how the school district will use its excess national school lunch categorical funds each school year and explaining in detail the amount of funds and percent of total funds to be used to supplement all classroom teacher salaries as allowed in this subdivision (b)(4)(C)(ix);

(6) Upon review of the school district's comprehensive school improvement plan, if the commissioner determines that the school district has met or is meeting the needs of students in the school district for which the funding for additional educational categories under this subdivision (b)(4)(C)(ix) and has prudently managed its resources, the commissioner shall give written approval of the detailed planned flexible use of excess national school lunch student categorical funds provided to the school district; and

(7) Upon review of the school district's comprehensive school improvement plan and other indicators, if the commissioner determines that a school district has not met the needs of students that may be served with national school lunch student categorical funds, the commissioner may require that any and all national school lunch categorical funds dedicated for use or application in the teacher salary fund shall be removed from and not used to meet the classroom teacher salary obligation and redirected and applied to meet the needs of students in a school district.

(x) Each school district shall submit to the Department of Education a report listing each program and purpose upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Department of Education concerning the receipt and use of funds allocated under this subdivision (b)(4).

(xi) No provision of subdivision (b)(4)(C)(ix) of this section shall be deemed to prohibit a school district from participating in the provisions of subdivisions (b)(4)(C)(ii)-(viii) of this section.

(xii) The Department of Education shall promulgate rules and develop appropriate reporting forms for use by school districts to comply with this subdivision (b)(4)(C).

(D)(i) By the end of each school year, each school district shall submit to the Department of Education a report listing each program upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Department of Education.

(ii) The Department of Education shall develop appropriate reporting forms for use by school districts.

(E)(i) The Department of Education shall provide a report on the impact of national school lunch student categorical funding provided under this subdivision (b)(4) on closing the achievement gap to the House Committee on Education and the Senate Committee on Education by May 31 each even-numbered year, beginning in 2010.

(ii) The report shall include information broken down by category as described in subdivision (b)(4)(A) of this section on:

(a) How school districts are spending national school lunch student categorical funds, including specific programs utilized by school districts;

(b) The amount of national school lunch student categorical funds transferred to another categorical fund, including an explanation of

why the national school lunch student categorical funds were transferred; and

(c) The analysis of student achievement data evaluated in student achievement growth models as defined under § 6-15-435 shall be expanded to include the evaluation of the best estimates of classroom, school, and school district effects on narrowing the achievement gap, in addition to the examination of student progress based on established value-added longitudinal calculations.

(iii) The report shall be included in the General Assembly's biennial adequacy study to evaluate the adequacy of education in the state.

(F)(i) By June 30, 2012, and by June 30 of each year thereafter, a school district shall spend a minimum of eighty-five percent (85%) of the school district's annual national school lunch state categorical funding allocation as provided under subdivision (b)(4)(C) of this section.

(ii) A school district that on June 30, 2012, has a national school lunch state categorical funding balance in excess of fifteen percent (15%) of the school district's current year annual national school lunch state categorical funding allocation shall reduce its total national school lunch state categorical funding balance by at least ten percent (10%) each year so that by June 30, 2022, and by June 30 of each year thereafter, the school district has a balance of no more than fifteen percent (15%) of the school district's current year annual national school lunch state categorical funding allocation.

(iii)(a) Under an unusual and limited circumstance, including without limitation an increase in one-time funds or an unexpected decrease in school district revenues during a given year, a school district may request that the Department of Education waive the requirements of this subdivision (b)(4)(F).

(b) A school district seeking a waiver shall file a waiver request with the commissioner, accompanied by a resolution adopted by the school district's board of directors, describing the unusual and limited circumstances.

(iv) The commissioner may grant a waiver request under this subdivision (b)(4)(F) for up to one (1) year if the commissioner finds that the request is necessary based upon the unusual and limited circumstances.

(v)(a) The Department of Education shall monitor on a yearly basis each school district's compliance with the requirements of this subdivision (b)(4)(F).

(b) If a school district fails to comply with the requirements of this subdivision (b)(4)(F) during a school year, the Department of Education may in the following school year withhold from that school district's national school lunch state categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subdivision (b)(4)(F).

(c) The Department of Education may redistribute amounts withheld under this subdivision (b)(4)(F) to other school districts entitled to receive national school lunch state categorical funding allocations. (5)(A) For the 2013-2014 school year, professional development funding shall be equal to an amount of up to fifty-three dollars (\$53.00) multiplied by the school district's previous school year average daily membership.

(B) For the 2014-2015 school year and each school year thereafter, professional development funding shall be equal to an amount of up to fifty-four dollars (\$54.00) multiplied by the school district's previous school year average daily membership.

(C) Funding for professional development for teachers in Arkansas public schools required under the Teacher Excellence and Support System, § 6-17-2801 et seq., other law or rule, or by the school district shall be used for professional development activities and materials that:

- (i) Improve the knowledge, skills, and effectiveness of teachers;
- (ii) Address the knowledge and skills of administrators and paraprofessionals concerning effective instructional strategies, methods, and skills;
- (iii) Lead to improved student academic achievement; and
- (iv) Provide training for school bus drivers as outlined in rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

(c) Isolated funding under § 6-20-601, student growth funding, and special education-catastrophic occurrences funding shall be funded as follows:

(1) Isolated funding and special education-catastrophic occurrences funding shall be allocated and funded to school districts in a line item appropriation within the Public School Fund pursuant to law or rules promulgated by the State Board of Education; and

(2)(A) Student growth funding is calculated as the sum of the following amounts:

(i) One-quarter ($\frac{1}{4}$) of the per student foundation funding for the school district under subdivision (a)(2) of this section multiplied by the increase, if any, of each of the following:

(a) The school district's quarterly average daily membership for the first quarter of the current school year over average daily membership of the previous school year;

(b) The school district's quarterly average daily membership for the second quarter of the current year over the average daily membership of the previous school year;

(c) The school district's quarterly average daily membership for the third quarter of the current school year over the average daily membership of the previous school year; and

(d) The school district's quarterly average daily membership for the fourth quarter of the current school year over the average daily membership of the previous school year; and

(ii) Excluding any increase resulting solely from consolidation or annexation with another school district.

(B) The Department of Education shall:

(i) By January 31 of each year:

(a) Calculate an amount of student growth funding under subdivision (c)(2)(A) of this section using the quarterly average daily membership for the first quarter and an estimation of the average daily membership for the second, third, and fourth quarters; and

(b) Distribute to the school district not less than sixty percent (60%) of the amount calculated under subdivision (c)(2)(B)(i)(a) of this section;

(ii) By April 30 of each year, distribute to the school district forty percent (40%) of the amount calculated under subdivision (c)(2)(B)(i)(a) of this section; and

(iii)(a) By July 31 of each year, calculate the amount of student growth funding under subdivision (c)(2)(A) of this section using the actual quarterly average daily membership for all four (4) quarters of the applicable school year.

(C) By August 31 of the fiscal year in which the student growth funding is received, if the amount under subdivision (c)(2)(B)(iii)(a) of this section is:

(1) More than the amount under subdivision (c)(2)(B)(i)(a) of this section, the Department of Education shall distribute the difference to the school district; or

(2) Less than the amount under subdivision (c)(2)(B)(i)(a), the school district shall refund the difference to the Department of Education.

(d) The sum of subsections (a)-(c) of this section shall be the total state aid allocated and funded to school districts pursuant to this section.

(e)(1) Funds distributed to school districts under subsection (b) of this section shall be expended on:

(A) The students within each category of special needs for which the funds were allocated;

(B) Any students within any category of special needs under subsection (b) of this section as permitted by rules issued by the State Board of Education; or

(C) If the Department of Education determines that a school district's expenditure of funds allocated under subsection (b) of this section would result in the school district's losing funding under any federal law, then the funds allocated to a school district under subsection (b) of this section may be expended for other academic programs or salaries as permitted by the Department of Education.

(2) On June 30, 2012, and on June 30 of each school year thereafter, if the total aggregate balance of all state categorical fund sources exceeds twenty percent (20%) of the school district's total aggregate annual state categorical fund allocations for the current school year, the school district shall reduce the total balance by ten percent (10%) each

year until the school district's June 30 balance of aggregate annual categorical fund sources is twenty percent (20%) or less of the total aggregate annual state categorical fund allocations for the current school year.

(3) A school district may transfer funds received from any categorical fund source to another categorical fund source.

(4)(A) The Department of Education shall monitor on a yearly basis each school district's compliance with the requirements of this subsection.

(B) If a school district fails to comply with the requirements of this subsection during a school year, the Department of Education may in the following school year withhold from that school district's categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this subsection.

(C) The Department of Education may redistribute amounts withheld under this subsection to other school districts entitled to receive categorical funding allocations.

(f) In order for a school district to be entitled to state funds under the provisions of this subchapter, the school district shall satisfy the following requirements:

(1) Expenditures for any fiscal year shall not exceed the legal revenues for that fiscal year;

(2) The school district shall maintain records and make reports relative to attendance, receipts, and disbursements and other reports as required by the Department of Education for the administration of this subchapter;

(3) The school district shall maintain proper financial records in accordance with the state's school accounting manual and regulations promulgated by the State Board of Education;

(4)(A) Each school year the school district shall file with the State Board of Education a salary schedule for its licensed employees that recognizes a minimum level of training and experience.

(B) The schedule shall reflect the actual pay practices of the school district, including all fringe benefits.

(C) Salary increments for experience or education, or both, shall be identified on the schedule; and

(5)(A) All pupil attendance records shall be kept in their original form and shall be public records.

(B) The records shall be kept according to law and regulations on paper or electronic forms either furnished or approved by the Department of Education.

(C) After the school term has ended, the superintendent of the school district shall:

(1) Keep the original attendance records on file for a period of three (3) school years; and

(2) Make the original attendance records available for monitoring purposes during any day of the school term for the teachers or other persons designated to keep attendance.

(g)(1) By the end of each school year, each school district shall submit to the Department of Education a report listing each program upon which funds allocated under subsection (b) of this section were expended, the amount expended, and any other information required by the Department of Education.

(2) The Department of Education shall develop appropriate reporting forms for use by school districts.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2005, No. 2283, § 2; 2006 (1st Ex. Sess.), No. 19, § 3; 2006 (1st Ex. Sess.), No. 21, § 1; 2006 (1st Ex. Sess.), No. 30, § 1; 2006 (1st Ex. Sess.), No. 31, § 1; 2007, No. 272, §§ 3, 4, 6; 2007, No. 273, § 1; 2007, No. 461, §§ 2, 3; 2007, No. 811, § 2; 2007, No. 1590, §§ 1, 2; 2009, No. 965, § 1; 2009, No. 1186, § 1; 2009, No. 1369, § 1; 2009, No. 1397, § 4; 2009, No. 1469, §§ 16, 17; 2009, No. 1474, § 1; 2009, No. 1501, § 1; 2011, No. 633, § 1; 2011, No. 981, § 12; 2011, No. 993, § 2; 2011, 1039, §§ 2-4; 2011, No. 1209, § 9; 2011, No. 1220, §§ 1-4; 2013, No. 322, § 3; 2013, No. 420, § 6; 2013, No. 557, § 2; 2013, No. 1138, § 52; 2013, No. 1467, §§ 1-5; 2013, No. 1473, § 1.

A.C.R.C. Notes. Acts 2011, No. 633, § 2, provided: "Data received by the Department of Education under § 6-20-2305(a)(4)(C) may be appropriately adjusted by the department if it is determined that distributions reported on the county treasurer's annual summary report for the 2011 calendar year submitted by January 31, 2012, were also accounted for on the 2010 county tax settlement report template submitted by February 15, 2011, for collections made during the 2010 calendar year. Evidence of overlapping revenue reporting or irregular distributions shall be provided in the form required by the Department of Education."

Pursuant to Acts 2011, No. 981, § 19, § 6-20-2305(a)(4)(A)(i) is set out above as amended by Acts 2011, No. 633, § 1. Acts 2011, No. 981, § 19, read as follows: "The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Eighty-Eighth General Assembly. All such acts shall have the full force and effect and, so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts and as

amending or repealing the appropriate parts of the Arkansas Code of 1987."

Acts 2011, No. 1039, § 1, provided: "The General Assembly finds that:

"(1) In "A Report on Legislative Hearings for the 2010 Interim Study on Educational Adequacy", the interim House Committee on Education and the interim Senate Committee on Education found that the transportation funding provided in foundation funding is sufficient to meet the State of Arkansas's adequacy requirements with regard to student transportation. They went on to recommend, however, a distribution of funding through an enhanced transportation funding formula for certain school districts that may have high transportation costs. The committees further recommended that money to fund this new program be found by reducing, in part, a recommended increase in foundation funding. The committees made clear in the 2010 interim study report that this recommended enhanced transportation funding was found to be over and above what was required for adequacy;

"(2) In the previous biennium, in "A Report on Legislative Hearings for the 2008 Interim Study on Educational Adequacy", the committees found that student transportation may be a necessary component for providing students with an equitable opportunity for an adequate education to the extent that a student would not otherwise be able to realize this opportunity but for such transportation being provided by the state. Analyzing what portion of student transportation is required for adequacy purposes is a highly complex, fact-intensive study. It requires analysis of many factors such as student characteristics, bus routes taken, route miles, and a myriad of other factors. Nonetheless, it is clear from "The Resource Allocation of Foundation Funding for Arkansas School Districts," August 23, 2008, Bureau of Legislative Research, and the 2010 interim study report that the

evidence gathered by the committees demonstrated that the amount of revenue provided in foundation funding is sufficient to fund the overall adequacy needs of all school districts;

“(3) The 2010 interim study report recommends, essentially, removing a portion of transportation funding contained in the resource matrix used to determine necessary foundation funding levels, and using those funds to provide revenue for transportation to some, but not all, school districts for a program that is not required to maintain educational adequacy; and

“(4) The foundation funding formula and the resource matrix on which the foundation funding formula is based have served the state well since they were first used. The formula and the matrix provide a clear, transparent, and easy to understand method for analyzing state funding needs for districts, while allowing districts the flexibility to use such funds to more closely meet unique district needs. The committees’ recommendation that the General Assembly depart from this approach jeopardizes this method for determining and meeting school district adequacy needs, a method that the Supreme Court found to be constitutional in 2004 and in 2007. Accordingly, the General Assembly finds and determines that the foundation funding formula and the resource matrix upon which it is built should be maintained and declines to adopt the enhanced transportation funding approach recommended in the 2010 interim study report.”

Acts 2013, No. 322, § 6, provided: “For the 2014-2015 school fiscal year only, as used in this act the phrase ‘calendar year immediately preceding the beginning of the current school fiscal year’ means the 2012 calendar year.”

Acts 2013, No. 1467, § 6, provided: “TEMPORARY LANGUAGE.

“(a) The General Assembly finds that:

“(1) It is the duty of the State of Arkansas to provide a general, suitable, and efficient system of free public schools to the children of the state, under Arkansas Constitution, Article 14, § 1;

“(2) The General Assembly is obligated to ensure the provision of an adequate and equitable system of education;

“(3) The House Committee on Education, the Senate Committee on Education, and the Eighty-ninth General Assembly

examined national school lunch state categorical funding to determine how the funding affects student achievement;

“(4) While the state’s goal in providing national school lunch state categorical funding is to provide a greater level of resources to school districts with the highest concentration of economically disadvantaged students, the current method of funding should be improved to better meet that goal;

“(5) The evidence presented to the House Committee on Education, the Senate Committee on Education, and the Eighty-ninth General Assembly indicates that the method in which national school lunch state categorical funding is distributed should change;

“(6) Evidence presented to the House Committee on Education and the Senate Committee on Education in March 2013 shows that the current method of funding national school lunch state categorical amounts should be revised to align more directly with student achievement;

“(7) The current method of distributing national school lunch state categorical funding does not differentiate between the family income levels of students who are at significantly different poverty levels;

“(8) A change in the method of distributing national school lunch state categorical funding should produce a greater alignment of funding with concentrations of national school lunch students and focus the existing resources on programs associated with achievement gains for economically disadvantaged and low-performing students;

“(9) School districts should only be permitted to use national school lunch state categorical funding to fund evidence-based programs directed at improving student achievement for economically disadvantaged and low-performing students;

“(10) The House Committee on Education and the Senate Committee on Education, meeting jointly, adopted two recommendations for national school lunch state categorical funding:

“(A) Replace the current national school lunch state categorical funding mechanism with a model that provides funding for economically disadvantaged students on a sliding scale; and

“(B) Prioritize and focus school districts’ allowable uses of educational fund-

ing for economically disadvantaged students;

“(11) The recommendations in subdivision (10) were adopted partially in response to a report by the Bureau of Legislative Research indicating that current national school lunch state categorical funding levels have not achieved desired achievement gains. The bureau also found that the number of allowed uses for national school lunch state categorical funding may dilute the impact of the funding but that further study would be necessary to determine whether this is so;

“(12) While these concerns are important, the General Assembly has not had sufficient time to act on the findings and recommendations of the House Committee on Education and the Senate Committee on Education to find the best possible solution to the identified problems and recommendations. More time and study is needed to determine how best to implement the recommendations. However, it is clear that the evidence strongly suggests that an increase of national school lunch state categorical funding for the upcoming school year is unlikely to produce the expected increase in academic achievement for the students for whom the funding is provided.

“(b) The House Committee on Education and the Senate Committee on Education, in conjunction with the bureau and the Department of Education, shall conduct a study and make the following recommendations to the Eighty-ninth General Assembly for consideration during the 2014 Fiscal Session:

“(1) A list of evidence-based programs for which national school lunch state categorical funds may be expended by school districts; and

“(2) A new national school lunch state categorical funding formula to replace the current national school lunch state categorical funding mechanism with a model that:

“(A) Provides funding for economically disadvantaged students on a sliding scale; and

“(B) Weights the funding to provide more money to school districts for students who, under federal poverty guidelines, qualify for free meals than it provides to students who qualify for reduced-priced meals.”

Amendments. The 2009 amendment

by identical acts Nos. 965 and 1186 added (a)(4)(C).

The 2009 amendment by No. 1369 added (b)(4)(E).

The 2009 amendment by No. 1397 rewrote (a)(4)(A)(i).

The 2009 amendment by No. 1469 rewrote (b)(4).

The 2009 amendment by No. 1474 rewrote (a)(2).

The 2009 amendment by No. 1501 rewrote (c)(2)(B) and added (c)(2)(C).

The 2011 amendment by No. 633 substituted “§ 26-80-101(b)(4)(A)(ii)” for “§ 26-26-2004” in (a)(4)(A)(i); in (a)(4)(C)(i), substituted “received” for “collected” and “under § 26-80-101(b)(4)(A)(ii)” for “in cooperation with the Assessment Coordination Department”; and, in (a)(4)(C)(iii), inserted “overlapping revenue reporting or” and “provided.”

The 2011 amendment by No. 981 deleted “as reported under § 26-26-2004” following “school district” in (a)(4)(A)(i).

The 2011 amendment by No. 993 redesignated (b)(4)(B)(i)(a) as (b)(4)(B)(i)(a)(I) and added “except as provided under” in the beginning; and added (b)(4)(B)(i)(c).

The 2011 amendment by No. 1209 rewrote (b)(5)(B).

The 2011 amendment by No. 1220 inserted (b)(4)(C)(i)(b)(9) through (b)(4)(C)(i)(b)(16); inserted “in the prior school year” in (b)(4)(C)(ix)(b)(1); inserted (b)(4)(F); and inserted present (e)(2) through (e)(4).

The 2011 amendment by No. 1039, in (a)(2)(A), substituted “2011-2012” for “2009-2010” and “six thousand one hundred forty-four dollars (\$6,144)” for “five thousand nine hundred five dollars (\$5,905)”; in (a)(2)(B), substituted “2012-2013” for “2010-2011” and “six thousand two hundred sixty-seven dollars (\$6,267)” for “six thousand twenty-three dollars (\$6,023)”; deleted former (a)(2)(C); in (b)(2)(A)(i), substituted “For the 2011-2012” for “Beginning with the 2007-2008” and “four thousand one hundred forty-five dollars (\$4,145)” for “four thousand sixty-three dollars (\$4,063)”; added (b)(2)(A)(ii); redesignated former (b)(2)(A)(ii) as (b)(2)(A)(iii); in (b)(3)(A), substituted “For the 2011-2012” for “Beginning with the 2007-2008” and “two hundred ninety-nine dollars (\$299)” for “two hundred ninety-three dollars (\$293)”; added (b)(3)(B); redesignated former (b)(3)(B) and (b)(3)(C)

as present (b)(3)(C) and (b)(3)(D); deleted "Beginning with the 2009-2010 school year" preceding "National school lunch" in (b)(4)(A); substituted "one thousand five hundred eighteen dollars (\$1,518) for the 2011-2012 school year, and one thousand five hundred forty-nine dollars (\$1,549) for the 2012-2013 school year and for each school year thereafter" for "one thousand four hundred eighty-eight dollars (\$1,488)" in (b)(4)(A)(i); substituted "one thousand twelve dollars (\$1,012) for the 2011-2012 school year, and one thousand thirty-three dollars (\$1,022) for the 2012-2013 school year and for each school year thereafter" for "nine hundred ninety-two dollars (\$992)" in (b)(4)(A)(ii); substituted "five hundred six dollars (\$506) for the 2011-2012 school year, and five hundred seventeen dollars (\$517) for the 2012-2013 school year and each school year thereafter" for "four hundred ninety-six dollars (\$496)" in (b)(4)(B)(iii); deleted "Beginning with the 2009-2010 school year" preceding "if a school" in (b)(4)(B)(ii)(a); and rewrote (b)(5).

The 2013 amendment by No. 322 subdivided part of (a)(1)(A) as (a)(1)(A)(i) and (ii); in (a)(1)(A), deleted "the difference between" following "computed as" and substituted "under" for "pursuant to"; in (a)(1)(A)(ii), substituted "An amount of" for "the" and added "calculated under § 6-20-2308" at the end of.

The 2013 amendment by No. 420 substituted "Commission for Arkansas Public School Academic Facilities and Transportation" for "State Board of Education" in (b)(5)(C)(iv).

The 2013 amendment by No. 557 added subdivision designations in (a)(4)(A); substituted "Except as provided in subdivision (a)(4)(C) and (D) of this section, by" for "By" in (a)(4)(A)(i); added (a)(4)(A)(ii); added present (a)(4)(C); redesignated former (a)(4)(C) as present (a)(4)(D); in (a)(4)(D)(i), substituted "A school district shall submit annually to the Department of Education data" for "Data" and deleted "shall be received annually by the Department of Education"; substituted "The Department of Education may adjust data appropriately if it determines" for "Data may be appropriately adjusted by the De-

part of Education if it is determined" in (a)(4)(D)(ii)(a).

The 2013 amendment by No. 1138 substituted "licensed" for "certified" in (f)(4)(A).

The 2013 amendment by No. 1467, in (a)(2)(A), substituted "2013-2014" for "2011-2012" and "six thousand three hundred ninety-three dollars (\$6,393)" for "six thousand one hundred forty-four dollars (\$6,144)"; in (a)(2)(B), substituted "2014-2015" for "2012-2013"; inserted "and each school year thereafter"; and substituted "six thousand five hundred twenty-one dollars (\$6,521)" for "six thousand two hundred sixty-seven dollars (\$6,267)"; in (b)(2)(A)(i), substituted "2013-2014" for "2011-2012" and "four thousand three hundred five dollars (\$4,305)" for "four thousand one hundred forty-five dollars (\$4,145)"; in (b)(2)(A)(ii), substituted "2014-2015" for "2012-2013" and "four thousand three hundred eighty-three dollars (\$4,383)" for "four thousand two hundred twenty-eight dollars (\$4,228)"; in (b)(3)(A), substituted "2013-2014" for "2011-2012" and "three hundred eleven dollars (\$311)" for "two hundred ninety-nine dollars (\$299)"; in (b)(3)(B), substituted "2014-2015" for "2012-2013" and "three hundred seventeen dollars (\$317)" for "three hundred five dollars (\$305)"; in (b)(4)(A)(i), substituted "is" for "shall be one thousand five hundred eighteen dollars (\$1,518) for the 2011-2012 school year, and", and deleted "for the 2012-2013 school year and for each school year thereafter"; in (b)(4)(A)(ii), substituted "is" for "shall be one thousand twelve dollars (\$1,012) for the 2011-2012 school year, and" and deleted "for the 2012-2013 school year and for each school year thereafter"; in (b)(4)(A)(iii), substituted "per-student" for "per student"; and "is" for "shall be five hundred six dollars (\$506) for the 2011-2012 school year, and"; deleted "for the 2012-2013 school year and each school year thereafter"; in (b)(5)(A), substituted "2013-2014" for "2011-2012" and "fifty-three dollars (\$53.00)" for "fifty-one dollars (\$51.00)"; in (b)(5)(B), substituted "2014-2015" for "2012-2013"; and "fifty-four dollars (\$54.00)" for "fifty-two dollars (\$52.00)."

The 2013 amendment by No. 1473 added (b)(4)(C)(i)(b) (17).

CASE NOTES

Illegal Exaction.

Summary judgment was properly awarded to the Arkansas Governor and state officials in an action claiming that they retained and unlawfully diverted funds derived from property taxes and allocated to the Arkansas Educational Ex-

cellence Trust Fund (EETF) because appellants did not show how the state used EETF funds to supplant its foundation funding aid contribution to reach the amount per student established pursuant to the statute. *Fort Smith Sch. Dist. v. Beebe*, 2009 Ark. 333, 322 S.W.3d 1 (2009).

6-20-2306. Department of Education to provide funding — Adjustments for overpayments.

(a) If the Department of Education determines that an overpayment has been made to a school district under any appropriation authorized by this subchapter, the department may:

- (1) Withhold the overpayment from subsequent state funding;
 - (2) Transfer the amount withheld for the overpayment to the line item appropriation from which the overpayment was initially made; or
 - (3) Request a refund from the school district in the amount of the overpayment.
- (b) The school district shall comply as directed by the department.

History. Acts 2003 (2nd Ex. Sess.), No. 59, § 1; 2009, No. 376, § 43.

made a minor stylistic change in the introductory language in (a); and substituted “or” for “and” in (a)(2).

Amendments. The 2009 amendment

CASE NOTES

Excess Funds.

Education commissioner, a department of education, and a state treasurer were not authorized to distribute excess funds to another school district under § 26-80-101(b)(1)(B); the retention of revenue in excess of foundation funding resulted in variations, which were contemplated by

Ark. Const. art. 14, § 3(a). Moreover, the excess funds did not constitute an overpayment, such that the remedies in this section could have been implemented. *Kimbrell v. McCleskey*, 2012 Ark. 443, — S.W.3d —, 2012 Ark. LEXIS 472 (Nov. 29, 2012).

6-20-2308. Calculation of miscellaneous funds.

(a) For the purpose of making an initial calculation of state foundation funding aid, the Department of Education shall calculate the miscellaneous funds of a school district as:

- (1) The aggregate amount of miscellaneous funds a school district received in the calendar year immediately preceding the beginning of the current school fiscal year; multiplied by
- (2) The ratio of the uniform rate of tax to the school district’s total millage rate in effect as of January 1 of the calendar year in which the school district received the miscellaneous funds.

(b)(1) Except as provided under subdivision (b)(2) of this section, for a school district that receives state foundation funding aid and receives an aggregate amount of miscellaneous funds during the calendar year in which the current school fiscal year began that is less than the

aggregate amount of miscellaneous funds the school district received in the calendar year immediately preceding the beginning of the current school fiscal year, by the end of the school fiscal year the department shall distribute to the school district an amount equal to the difference between:

(A) The amount of miscellaneous funds calculated for the calendar year in which the current school fiscal year began; and

(B) The amount of miscellaneous funds calculated for the calendar year immediately preceding the beginning of the current school fiscal year.

(2) The sum of the following amounts shall not exceed the foundation funding amount under § 6-20-2305(a)(2):

(A) State foundation funding aid for the current school fiscal year;

(B) The school district's miscellaneous funds calculated for the calendar year in which the school fiscal year began;

(C) Ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district;

(D) A distribution under subdivision (b)(1) of this section; and

(E) A distribution or recoupment under § 6-20-2305(a)(4).

(c)(1) Beginning with the 2014-2015 school fiscal year, the department shall recoup an overpayment of state funding under the authority provided by § 6-20-2306 for a school district that receives:

(A) State foundation funding aid; and

(B) An aggregate amount of miscellaneous funds for the calendar year in which the current school fiscal year began that is greater than the aggregate amount of miscellaneous funds it received in the calendar year immediately preceding the beginning of the current school fiscal year.

(2) The department shall recoup from the school district an amount equal to the difference between:

(A) The amount of miscellaneous funds calculated for the calendar year in which the current school fiscal year began; and

(B) The amount of miscellaneous funds calculated for the calendar year immediately preceding the beginning of the current school fiscal year.

(3) A recoupment from a school district under this subsection shall not exceed the amount of state foundation funding aid distributed to the school district for the school fiscal year on which the recoupment is based.

History. Acts 2013, No. 322, § 4.

A.C.R.C. Notes. Acts 2013, No. 322, § 6, provided: "For the 2014-2015 school fiscal year only, as used in this act the

phrase 'calendar year immediately preceding the beginning of the current school fiscal year' means the 2012 calendar year."

SUBCHAPTER 25 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES FUNDING ACT

SECTION.

- 6-20-2502. Definitions.
6-20-2503. Bonded debt assistance.
6-20-2504. [Repealed.]
6-20-2505. [Repealed.]
6-20-2506. [Repealed.]

SECTION.

- 6-20-2507. Academic Facilities Partnership Program.
6-20-2513. Appeals.
6-20-2516. Academic Facilities Review Board.

6-20-2502. Definitions.

As used in this subchapter:

(1)(A) "Academic facilities wealth index" means a percentage derived from the following computations:

(i) Determine the value of one (1) mill per student in each school district as follows:

(a) Multiply the value of one (1) mill by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year; and

(b) Divide the product from subdivision (1)(A)(i)(a) of this section by the greater of the prior year average daily membership of the school district or the prior three-year average of the school district's average daily membership;

(ii) Determine student millage rankings by listing the computation under subdivision (1)(A)(i) of this section for each school district from students with the lowest value per mill to students with the highest value per mill;

(iii) Allocate the student millage rankings into percentiles with the first percentile containing the one percent (1%) of students with the lowest value per mill and the one-hundredth percentile containing the one percent (1%) of students with the highest value per mill; and

(iv) Divide the value of one (1) mill per student in each school district as computed under subdivision (1)(A)(i) of this section by the amount corresponding to the ninety-fifth percentile of the student millage rankings under subdivision (1)(A)(iii) of this section.

(B) Every school district with a wealth index of one (1.00) or greater will be funded at the same level as the first school district with a wealth index below one (1.00), except that funding under this subdivision (1)(B) will not exceed the amount of funding provided for a wealth index of nine hundred ninety-five thousandths (.995).

(C)(i) The percentage derived from the computation under subdivision (1)(A)(iv) of this section is the academic facilities wealth index for a school district, which shall be computed annually and used to determine the amount of the school district's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the Division of Public School Academic Facilities and Transportation.

(ii) The state's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the division is the percentage derived from subtracting the school district's percentage share of financial participation determined under subdivision (1)(C)(i) of this section from one hundred percent (100%);

(2)(A) "Academic facility" means a building or space, including related areas such as the physical plant and grounds, where students receive instruction that is an integral part of an adequate education as described in § 6-20-2302.

(B)(i) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(ii) The division shall determine the extent to which a building, space, or related area is used for extracurricular activities or organized physical activities courses based on information supplied by the school district and, if necessary, on-site inspection.

(iii) A leased facility shall not be considered an academic facility for the purpose of this subchapter.

(C) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education shall not be considered academic facilities for purposes of this subchapter.

(D) District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter;

(3)(A) "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

(B) As applied to this subchapter, students who may be counted for average daily membership are:

(i) Students who reside within the boundaries of the school district and who are enrolled in a public school operated by the school district;

(ii) Legally transferred students living outside the school district but attending a public school in the school district; and

(iii) Students who are eligible to attend and reside within the boundaries of a school district and who are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program;

(4) "Facility condition index" means a methodology established by the division for comparing the cost of repairing the condition of a public

school academic facility to the cost of replacing the public school academic facility with a public school academic facility containing the same amount of square footage;

(5) "Immediate repair project" means a project involving a public school academic facility that is necessary to resolve a deficiency that presents an immediate hazard to:

(A) The health or safety of students, teachers, administrators, or staff;

(B) The integrity of the public school academic facility with regard to meeting minimum health and safety standards; or

(C) The extraordinary deterioration of the public school academic facility;

(6) "Local enhancements" means the portion of any maintenance, repair, or renovation project or new construction project that is designed to bring an academic facility or related areas such as the physical plant or grounds to a state of condition or efficiency that exceeds state academic facilities standards;

(7) "Local resources" means any moneys lawfully generated by a school district for the purpose of funding the school district's share of financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the division;

(8) "Maintenance, repair, and renovation" means any activity or improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds that, maintains, conserves, or protects the state of condition or efficiency of the academic facility;

(9) "Millage rate" means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of § 14-14-904;

(10)(A) "New construction" means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the academic facility's current condition of completeness or efficiency.

(B) "New construction" includes additions to existing academic facilities and new academic facilities;

(11) "Project" means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

(B) New construction of an academic facility; or

(C) Any combination of maintenance, repair, and renovation and new construction activities with regard to an academic facility; and

(12) "Space utilization" means the number of gross square feet per student in a public school academic facility adjusted for academic program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

History. Acts 2005, No. 2206, § 1; 2007, No. 727, § 1; 2009, No. 1473, § 9; 2011, No. 1006, §§ 6, 7.

Amendments. The 2007 amendment inserted present (1)(B); redesignated former (1)(B) as (1)(C); and substituted “(1)(C)(i)” for “(1)(B)(i)” in (1)(C)(ii).

The 2009 amendment added (2)(B)(iii). The 2011 amendment deleted (8)(B); and substituted “current” for “original” near the end of (10)(A).

6-20-2503. Bonded debt assistance.

(a) As used in this section:

(1) “Eligible school district” means a school district that applied for bonded debt assistance under this section before July 1, 2005;

(2) “Foundation funding” means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student as that amount is established in § 6-20-2305;

(3) “Miscellaneous funds” means the amount of miscellaneous funds, as defined in § 6-20-2303, calculated under § 6-20-2308(a);

(4) “Per-student revenue” means the sum of projected revenue from the uniform rate of tax and miscellaneous funds divided by the average daily membership for the school district for the previous school year;

(5) “Projected revenue from the uniform rate of tax” means in each school year ninety-eight percent (98%) of the amount of revenue available in a school district solely from the levy of the uniform rate of tax; and

(6) “State wealth index” means the result of one (1) minus the ratio derived by dividing per-student revenue by the difference between the per-student foundation funding amount under § 6-20-2305 and per-student revenue.

(b)(1) In accordance with the requirements and limitations of this section, the state shall provide eligible school districts with financial assistance for the purpose of retiring outstanding bonded indebtedness in existence as of January 1, 2005.

(2) The amount of financial assistance under this section is based on:

(A) The total amount required to satisfy a school district’s outstanding bonded indebtedness in existence as of January 1, 2005;

(B) The annual amount due on a fiscal year basis from the school district in accordance with the principal and interest payment schedule in effect and on file with the Department of Education on January 1, 2005, for the outstanding bonded indebtedness identified under subdivision (b)(2)(A) of this section; and

(C) The calculation in subdivision (b)(3)(A) or subdivision (b)(3)(B) of this section.

(3)(A) The Commission for Arkansas Public School Academic Facilities and Transportation shall determine the amount of financial assistance for each eligible school district as follows:

(i)(a) For the year that financial assistance under this section will be provided, ascertain the scheduled debt payment on a fiscal year basis from the principal and interest payment schedule in effect and

on file with the department on January 1, 2005, and reduce the amount of the payment by ten percent (10%) except as provided in subdivision (b)(3)(A)(i)(b) of this section.

(b)(1) If a school district can demonstrate to the satisfaction of the commission that all or a portion of the ten percent (10%) reduction in its scheduled debt payment under subdivision (b)(3)(A)(i)(a) of this section can be attributed to the support of academic facilities, the commission shall reverse all or a portion of the ten percent (10%) reduction by a percentage proportionate to the amount attributable to academic facilities.

(2) A school district that applied to the commission during the 2006-2007 school year for a reversal of the ten percent (10%) reduction but was denied the reversal by the commission due to the failure of the school district to submit timely appeals shall be entitled to receive bonded debt assistance for the relevant period of the program beginning with the 2007-2008 school year in the amount approved by the Division of Public School Academic Facilities and Transportation;

(ii) For the year that financial assistance will be provided, divide the scheduled debt payment as adjusted under subdivision (b)(3)(A)(i) by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year with the result multiplied by one thousand (1,000);

(iii)(a) Multiply the calculation under subdivision (b)(3)(A)(ii) of this section by a funding factor per average daily membership that will distribute a total amount of state financial assistance no less than the total amount of funds that would have been distributed during fiscal year 2005 if every school district in the state had received an amount of state financial assistance equal to an amount calculated by applying the debt service funding supplement formula under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during fiscal year 2005 with a funding factor of eighteen dollars and three cents (\$18.03).

(b) The funding factor for each fiscal year after Fiscal Year 2006 shall be equal to the funding factor derived for Fiscal Year 2006 under subdivision (b)(3)(A)(iii)(a) of this section; and

(iv) Multiply the calculation under subdivision (b)(3)(A)(iii) of this section by the state wealth index.

(B)(i) As used in this subdivision (b)(3)(B), “mandatory callable bonds” means a bond issue in which all net proceeds from debt service millage used to secure the issuance of that bond must be applied to payment of the issue and cannot be used for any other purposes.

(ii) School districts having mandatory callable bonds shall receive an amount of state financial assistance with regard to the mandatory callable bonds proportionate to the amount of state financial assistance provided under subdivision (b)(3)(A) of this section to school districts that do not have mandatory callable bonds.

(C) As the amount of state financial assistance under this section decreases to correlate with reductions in principal and interest payments and increases in property assessments, the commission shall distribute any savings through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(4)(A) The commission shall determine the amount of state financial assistance for each eligible school district no later than July 15 of each year.

(B)(i) State financial assistance under this subsection is payable to each eligible school district in two (2) equal installments.

(ii) The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(5) For tracking purposes, the school district shall account for the funds received as state financial assistance under this section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the commission.

(c)(1)(A)(i) Nothing in this section shall prohibit a school district from refunding bonds that were issued and outstanding as of January 1, 2005.

(ii) If a school district qualifies for state financial assistance under this section, the amount of state financial assistance under this section shall not be altered or reduced as a result of refunding the bonds that were issued and outstanding as of January 1, 2005, and the financial assistance shall continue after the refunding based on the principal and interest payment schedule in effect and on file with the department on January 1, 2005.

(B) The school district shall use the debt service savings, if any, produced by refunding the outstanding bonds as follows:

(i) The annual savings produced by the refunding shall be deposited into a bond refunding savings fund, to be used by the school district solely for the:

(a) New construction of, capital repairs to, or renovation of academic facilities; or

(b) Purchase of academic equipment; and

(ii) Before the date on which the refunding bonds are sold at public sale, the school district shall certify to the commission that the yearly debt service savings will be used solely for the purposes described in subdivision (c)(1)(B)(i) of this section.

(2)(A) Nothing in this section shall prohibit a school district from issuing second lien bonds.

(B) If a school district qualifies for state financial assistance under this section, the amount of state financial assistance under this section shall not be increased or reduced as a result of the issuance of second lien bonds.

(3) Nothing in this subsection shall prevent the annual adjustment of state financial assistance under this section in accordance with annual variations in the state wealth index and the school district's principal and interest payment schedule in effect and on file with the department on January 1, 2005.

(d)(1) The state shall not assume any debt of a school district or incur any obligation with regard to a school district's bonded indebtedness by providing the financial assistance described in this section.

(2) The school district receiving financial assistance under this section is and will remain independently liable for all outstanding indebtedness.

(e)(1) The commission shall compute the amount of general facilities funding that each school district received or would have received under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005.

(2)(A) In addition to the financial assistance provided under subsection (b) of this section, a school district shall receive in accordance with subdivision (e)(2)(B) of this section state financial assistance equal to all or a portion of the general facilities funding that the school district received or would have received under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005.

(B) The commission shall phase out state financial assistance under this subsection over a ten-year period by reducing the amount received by a school district under this subsection after Fiscal Year 2006 by one-tenth (1/10) in each year of the ten-year period with the savings distributed through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(3) State financial assistance under this subsection is payable to each eligible school district in two (2) equal installments. The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(f)(1) If a school district elected to receive supplemental millage incentive funding under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], during Fiscal Year 2005, the commission shall compute the difference between the amount of supplemental millage incentive funding that a school district received in Fiscal Year 2005 and the amount of debt service funding supplement and general facilities funding that the school district would have received under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], in Fiscal Year 2005.

(2)(A) In addition to the financial assistance provided under subsection (b) of this section, a school district that elected to receive supplemental millage incentive funding under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], shall receive in accordance with subdivision (f)(2)(B) of this section state financial assistance equal to all or a portion of the amount of

supplemental millage incentive funding that exceeded the amount that the school district would have received under debt service funding supplement and general facilities funding under the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq. [repealed], in Fiscal Year 2005.

(B) The commission shall phase out the state financial assistance under this subsection over a ten-year period by reducing the amount received by a school district under this subsection after Fiscal Year 2006 by one-tenth (1/10) in each year of the ten-year period with the savings distributed through the Educational Facilities Partnership Fund Account in accordance with rules promulgated by the commission.

(3) State financial assistance under this subsection is payable to each eligible school district in two (2) equal installments. The commission shall arrange for the payment of the first installment by August 1 of each year and the second installment by February 1 of each year.

(g)(1)(A) Within thirty (30) days after the satisfaction of a school district's outstanding bonded indebtedness in existence as of January 1, 2005, the school district shall notify the department that the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied, which shall include defeasance.

(B) If a school district has issued refunding bonds to refund bonds in existence as of January 1, 2005, the school district shall notify the department of the date that the school district's outstanding bonded indebtedness in existence as of January 1, 2005, would have been satisfied had the bonds not been refunded.

(2)(A) Within thirty (30) days after receiving notification under subdivision (g)(1)(A) of this section, the department shall certify to the commission that all the school district's outstanding bonded indebtedness in existence as of January 1, 2005, has been satisfied.

(B) Upon acceptance by the commission of the department's certification, state financial participation under this section shall expire.

(h)(1) A school district shall qualify to receive any appropriate supplemental millage incentive funds otherwise available in the public school fund if:

(A) The school district voluntarily raised its maintenance and operation mills only during the 2004-2005 school year in order to have a total millage beyond the twenty-five (25) mills required by the Arkansas Constitution, Amendment 74; and

(B) The school district's property assessment per student is below the state average per student.

(2) The supplemental millage incentive funds shall be available without regard to any other qualifications in law, including without limitation any requirement that a school district must have previously received a debt service funding supplement.

History. Acts 2005, No. 2206, § 1; § 33; 2009, No. 1479, § 1; 2011, No. 266, 2007, No. 989, §§ 3-5; 2007, No. 1573, § 1; 2013, No. 322, § 5.

A.C.R.C. Notes. Acts 2013, No. 322, § 6, provided: "For the 2014-2015 school fiscal year only, as used in this act the phrase 'calendar year immediately preceding the beginning of the current school fiscal year' means the 2012 calendar year."

Amendments. The 2009 amendment rewrote (c)(1)(B)(i).

The 2011 amendment rewrote (a)(3) through (a)(4); and inserted present (a)(5) and redesignated the remaining subdivision as (a)(6).

The 2013 amendment rewrote (a)(3).

6-20-2504. [Repealed.]

Publisher's Notes. This section, concerning the Academic Facilities Immediate Repair Program, was repealed by Acts

2013, No. 1138, § 53. The section was derived from Acts 2005, No. 2206, § 1; 2007, No. 989, § 6.

6-20-2505. [Repealed.]

Publisher's Notes. This section, concerning Academic Equipment Program, was repealed by Acts 2013, No. 1138,

§ 54. The section was derived from Acts 2005, No. 2206, § 1; 2007, No. 989, § 7.

6-20-2506. [Repealed.]

Publisher's Notes. This section, concerning Transitional Academic Facilities Program, was repealed by Acts 2013, No.

1138, § 55. The section was derived from Acts 2005, No. 2206, § 1; 2007, No. 989, § 8.

6-20-2507. Academic Facilities Partnership Program.

(a) There is established the Academic Facilities Partnership Program under which the Division of Public School Academic Facilities and Transportation shall provide state financial participation based on a school district's academic facilities wealth index in the form of cash payments to a school district for eligible new construction projects.

(b)(1) In order to apply for state financial participation in a new construction project, a school district shall provide the division with a detailed narrative, description, and justification for the project, a drawing, and evidence of:

(A) Preparation for the new construction project as demonstrated by inclusion of the new construction project in the school district's facilities master plan;

(B)(i) The adoption of a resolution certifying to the division the school district's dedication of local resources to meet the school district's share of financial participation in the new construction project.

(ii) The resolution shall specify the approximate date that the board of directors of the school district intends to seek elector approval of any bond or tax measures or to apply other local resources to pay the school district's share of financial participation in the new construction project;

(C)(i) The total estimated cost of the new construction project that shall be a minimum of three hundred dollars (\$300) per student or one hundred fifty thousand dollars (\$150,000), whichever is less.

(ii) The division may waive the minimum requirement under subdivision (b)(1)(C)(i) of this section upon a recommendation by the Director of the Division of Public School Academic Facilities and Transportation to the Commission for Arkansas Public School Academic Facilities and Transportation for the minimum to be waived for cause and a majority of the commission votes to support the waiver;

(D) The new construction project's conformance with sound educational practices;

(E) The new construction project's compliance with current academic facilities standards, including without limitation, appropriate space utilization of the applicable school in the district as determined by the division;

(F) The allocation of project costs between new construction activities and maintenance, repair, and renovation activities if the new construction project includes improvements that could be classified as maintenance, repair, and renovation; and

(G) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district.

(2)(A) The life-cycles requirement contained in the state facility assessment of 2004 is advisory only and shall not be sufficient to support the approval of those items in the list of approved projects or individual items within a project.

(B) The division shall require independent proof of the failure of the equipment or other item.

(c) The division shall use criteria to evaluate a school district's application for state financial participation in a new construction project, which shall include, without limitation, the following:

(1) How the school district's facilities master plan and current academic facilities do not address the following:

(A) Student health and safety, including, without limitation, critical health and safety needs;

(B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(C) Conformance with sound educational practices;

(D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(F) Reasonable travel time and practical means of addressing other demographic considerations; and

- (G) Regularly scheduled maintenance, repair, and renovation;
- (2) How the school district's facilities master plan and any new construction project under the facilities master plan address the following:
- (A) Student health and safety, including, without limitation, critical health and safety needs;
 - (B) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;
 - (C) Conformance with sound educational practices;
 - (D) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;
 - (E) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;
 - (F) Reasonable travel time and practical means of addressing other demographic considerations; and
 - (G) Regularly scheduled maintenance, repair, and renovation;
- (3) How the new construction project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the school district;
- (4) How the new construction project has been prioritized by the school district; and
- (5) The allocation and expenditure of funds in accordance with this subchapter and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.
- (d)(1) The division shall notify the school district of the division's decision on the application and, if applicable, the estimated amount of state financial participation in the new construction project no later than May 1 of each odd-numbered year.
- (2) The division's notice of its decision on a school district's application for state financial participation in a new construction project shall include an explanation of the evaluative factors underlying the decision of the division to provide or not provide state financial participation in support of the new construction project.
- (3) The commission may withdraw committed funds if a school district had funding made available on:
- (A) July 1, 2006, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2010; or
 - (B) July 1, 2007, and does not begin construction, as evidenced by a signed construction contract, by January 31, 2011.
- (4) If a construction project has not begun as required under subdivision (d)(3) of this section due to the failure of a school district to raise the school district's share of the project cost due to a failed millage election prior to June 1, 2009, the division may exercise its authority under § 6-21-811.

(e)(1) If the division determines that the new construction project is eligible for state financial participation, the division and the school district shall enter into an agreement specifying the terms of the state's financial participation and the conditions that must be satisfied by the school district.

(2) At a minimum, the agreement shall:

(A) Identify the estimated amount of local financial participation and state financial participation in the new construction project;

(B) Define the method of and schedule for transferring state financial participation funds to the school district;

(C) Identify whether the new construction project includes any improvements that are classified as maintenance, repair, and renovation and how the project costs will be allocated between new construction activities and maintenance, repair, and renovation activities;

(D) Provide that changes to the plans for the new construction project shall be made in consultation with the division;

(E) Provide that the division or any person acting on behalf of the division may conduct on-site inspections of the new construction project as frequently as the division deems necessary to assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities;

(F) Determine how risk will be allocated between the school district and the state if the new construction project is not completed;

(G) Describe how changes in the school district's wealth index over the course of the new construction project will be treated; and

(H) Specify that the agreement is void and the state will have no further obligation to provide state funds to the school district for the new construction project that is the subject of the agreement if the school district does not raise local resources and apply local resources toward the new construction project as provided under the agreement.

(3) If a school district fails to adhere to the timelines as established in subsection (g) of this section, the agreement shall be void and the state will have no further obligation to provide state funds to the school district for the new construction project under the agreement.

(f)(1)(A) If a school district qualifies for state financial participation under this section, the division shall certify the amount of state financial participation to the commission.

(B) The amount of state financial participation under this section is limited to the amount resulting from the application of the academic facilities wealth index to the project cost promulgated by the commission to calculate the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual under § 6-21-809.

(2)(A) The commission shall certify the amount to the Department of Education for payment, less any withholding or reduction imposed by the commission under § 6-21-114(d) for a school district's failure to comply with the commission's insurance requirements.

(B) For tracking purposes, the school district shall account for the funds received as state financial participation under this section as restricted funds and shall account for the funds in accordance with provisions of law, including without limitation, the Arkansas Educational Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq., and rules established by the State Board of Education and the commission.

(g)(1) The commission shall establish compliance dates for the:

- (A) Execution of the partnership agreement;
- (B) Start of the project design; and
- (C) Start and ending of construction.

(2) Projects not meeting the compliance dates may be cancelled by the commission, and the state's financial participation, in whole or in part, may be declared void after the school district has been provided:

- (A) A notice of the failure to meet compliance dates; and
- (B) An opportunity for a hearing before the commission.

History. Acts 2005, No. 2206, § 1; 2007, No. 625, § 2; 2007, No. 989, §§ 9-11; 2009, No. 376, § 44; 2009, No. 1473, §§ 10-13.

Amendments. The 2009 amendment by No. 376, in (b)(1)(C)(ii), substituted "Commission for Arkansas" for "Commis-

sioners for the Division of," and made minor stylistic changes.

The 2009 amendment by No. 1473 inserted "a drawing" in the introductory language of (b)(1); rewrote (d); and added (e)(3) and (g).

6-20-2513. Appeals.

(a) A public school district may appeal:

(1) A determination of the Division of Public School Academic Facilities and Transportation under this subchapter to the Academic Facilities Review Board in accordance with procedures developed by the board under § 6-20-2516; and

(2)(A) A decision of the board to the Commission for Arkansas Public School Academic Facilities and Transportation in accordance with procedures developed by the commission.

(B) The public school district shall provide to the board a copy of the request for appeal when it files the request with the commission.

(b) All decisions of the commission resulting from a public school district's appeal of a decision of the board under this subchapter shall be final and shall not be subject to further appeal or request for rehearing to the commission or petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2005, No. 2206, § 1; 2009, No. 937, § 1; 2011, No. 981, § 13; 2011, No. 1006, § 4.

Amendments. The 2009 amendment rewrote (a); in (b), inserted "public" and substituted "decision of the board" for "division determination"; and added (c).

The 2011 amendment by No. 981 redesignated former (a)(2) and (3) as (a)(2)(A) and (a)(2)(B).

The 2011 amendment by No. 1006 deleted (c).

6-20-2516. Academic Facilities Review Board.

(a) There is established the Academic Facilities Review Board to hear the appeal filed by a public school district under § 6-20-2513(a) of a determination of the Division of Public School Academic Facilities and Transportation.

(b)(1) The board is composed of five (5) members appointed by the Governor as follows:

(A) One (1) member who is a licensed building contractor with five (5) years or more of experience in public school construction selected from a list of three (3) names submitted to the Governor by the Arkansas Chapter, Associated General Contractors of America;

(B) One (1) member who is a registered architect with at least five (5) years of experience in public school design selected from a list of three (3) names submitted to the Governor by the Arkansas Chapter, American Institute of Architects;

(C) One (1) member who is a licensed or registered engineer with at least five (5) years of experience in public school construction selected from a list of three (3) names submitted to the Governor by the Arkansas Society of Professional Engineers/American Council of Engineering Companies of Arkansas;

(D) One (1) member who is selected from a list of three (3) names submitted to the Governor by the Arkansas Association of Educational Administrators; and

(E) One (1) member who is selected from a list of three (3) names submitted to the Governor by the Arkansas School Boards Association.

(2) A member of the board shall be a resident of this state at the time of appointment and throughout the member's term.

(3) A member of the Commission for Arkansas Public School Academic Facilities and Transportation shall not serve as a member of the commission while serving as a member of the board.

(c)(1)(A) Each member of the board shall serve a term of three (3) years.

(B) The initial members shall draw lots for staggered terms.

(2) The Governor shall appoint any qualified person to fill a position that is vacated before the expiration of a member's term.

(d)(1) The Governor shall designate one (1) member to serve as chair of the board at its organizational meeting.

(2) The chair or the chair's designee shall call an organizational meeting within twenty (20) calendar days after the Governor has appointed all members of the initial board.

(3) At the organizational meeting, the members of the board shall elect a chair, who shall serve as chair for one (1) year.

(4) Annually after the organizational meeting, the board shall elect a new chair.

(e)(1) The board shall meet upon the call of the chair when a hearing is requested by a public school district, but a meeting shall not be held outside of this state.

(2) All action of the board shall be by a majority vote of the quorum present at a meeting.

(3) A majority of the members of the board shall constitute a quorum for the purpose of transacting business.

(f) The Department of Education shall provide staff support for the board's activities.

(g)(1) Members of the board shall serve without pay.

(2) Members of the board may receive expense reimbursement in accordance with § 25-16-902, to be paid by the department to the extent money is available for that purpose.

(h) The board shall establish policies and procedures for conducting hearings and appeals.

(i)(1) Following the hearing at which all testimony and evidence are presented, the board shall make a final determination accepting, rejecting, or modifying the determination of the division.

(2) Within ten (10) business days, the board shall provide to the appellant public school district and to the division a notice of the board's final determination.

(3)(A) If the board's final determination will result in a greater level of state financial participation in a project than previously authorized by the division, the board's final determination shall be reviewed by the commission in accordance with procedures developed by the commission.

(B) A decision of the commission resulting from a review of a decision of the board under this section is final and is not subject to:

(i) Further appeal to the commission;

(ii) Request for rehearing by the commission; or

(iii) Petition for judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 2009, No. 937, § 2; 2011, inserted "and to the division" in (i)(2); and No. 1006, § 5. added (i)(3).

Amendments. The 2011 amendment

CHAPTER 21

SCHOOL PROPERTY AND SUPPLIES

SUBCHAPTER.

1. GENERAL PROVISIONS.

3. ACQUISITION OF COMMODITIES GENERALLY.

4. FREE TEXTBOOK ACT.

6. MISCELLANEOUS OFFENSES.

8. ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-21-101. Authority to permit use of public school buildings for community purposes.
- 6-21-106. Fire hazards inspection prior to closing for breaks.
- 6-21-108. School districts authorized to own and convey real property — Donation of property for educational purposes and beneficial educational services only.
- 6-21-109. Rules governing public works projects.

SECTION.

- 6-21-112. Division of Public School Academic Facilities and Transportation.
- 6-21-113. Advisory Committee on Public School Academic Facilities.
- 6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.
- 6-21-116. Tornado shelter construction.
- 6-21-117. Leased academic facilities.

6-21-101. Authority to permit use of public school buildings for community purposes.

(a) The General Assembly finds that the use of a public school facility under this section:

(1) Promotes the education, health, and well-being of the communities where schools are located; and

(2) Is an intended purpose for the use of school property under Arkansas Constitution, Article 14, § 2.

(b)(1) The board of directors of a school district may permit members of the community to use land or public school facilities owned or operated by the school district for a community purpose, including without limitation:

(A) A social event;

(B) A civic event;

(C) Recreation;

(D) Health and wellness activities; and

(E) A lawful meeting of the citizens of the community.

(2) Community activities permitted at school facilities or on school land shall not interfere with an instructional day at the school where the community activities are held.

(c) To offset the cost of community use of school land or a public school facility, a school district may:

(1) Charge a fee;

(2) Accept gifts, grants, and donations from private sources, from municipal and county governments, from the state, and from the federal government; or

(3) Enter into a joint use agreement with a public agency, public entity, private entity, or nonprofit organization for shared use and responsibility of the school land or public school facility.

History. Acts 1931, No. 169, § 174; Pope's Dig., § 11616; A.S.A. 1947, § 80-517; Acts 2013, No. 1507, § 1.

Amendments. The 2013 amendment rewrote the section.

6-21-105. Braille and large print textbooks.

A.C.R.C. Notes. Acts 2011, No. 533, § 11, provided: "BRAILLE AND LARGE PRINT TEXTBOOKS. The State Board of Education shall make reasonable rules and regulations to implement the Braille and Large Print Textbooks appropriation and is hereby authorized to negotiate directly with publishers of Braille and Large Print Textbooks for the purchase of such textbooks. The Arkansas School for the Blind (ASB) is authorized to use funds from this account for costs associated with providing Braille Textbooks and Large Print Textbooks to public schools.

"The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012."

Acts 2012, No. 180, § 11, provided: "BRAILLE AND LARGE PRINT TEXTBOOKS. The State Board of Education shall make reasonable rules and regulations to implement the Braille and Large Print Textbooks appropriation and is hereby authorized to negotiate directly with publishers of Braille and Large Print Textbooks for the purchase of such text-

books. The Arkansas School for the Blind (ASB) is authorized to use funds from this account for costs associated with providing Braille Textbooks and Large Print Textbooks to public schools.

"The provisions of this section shall be in effect only from July 1, 2012 through June 30, 2013."

Acts 2013, No. 1046, § 12, provided: "BRAILLE AND LARGE PRINT TEXTBOOKS. The State Board of Education shall make reasonable rules and regulations to implement the Braille and Large Print Textbooks appropriation and is hereby authorized to negotiate directly with publishers of Braille and Large Print Textbooks for the purchase of such textbooks. The Arkansas School for the Blind (ASB) is authorized to use funds from this account for costs associated with providing Braille Textbooks and Large Print Textbooks to public schools.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

6-21-106. Fire hazards inspection prior to closing for breaks.

(a)(1) At least seven (7) calendar days prior to the beginning of Christmas break, the school superintendent of each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings. If the chief executive officer of the fire department receives the request at least seven (7) calendar days prior to the beginning of Christmas break, he or she shall cause the school buildings to be inspected for fire hazards. The inspection shall be conducted prior to the beginning of Christmas break.

(2) At least seven (7) calendar days prior to the end of the school year, the school superintendent of each public elementary and secondary school in this state shall request an inspection of the premises by the fire department providing fire protection to the school buildings. If the chief executive officer of the fire department receives the request at least seven (7) calendar days prior to the end of the school year, he or she shall cause the buildings to be inspected for fire hazards. The inspection shall occur prior to the end of the school year.

(b) The chief executive officer of the fire department shall file a written report of the inspection with the superintendent for the school district where the public school building is located within ten (10) calendar days after the inspection.

(c) The inspection shall be at no cost to the school.

(d)(1) The superintendent shall file a written report with the chief executive officer of the fire department within seven (7) calendar days after receiving the inspection report.

(2) The superintendent's report shall indicate:

(A) What action was taken in response to the inspection report and the date the action was completed; or

(B) What action will be taken in response to the inspection report and the anticipated date of completion of the action.

(3) If the inspection report of the fire department includes deficiencies that require a response or other action, the superintendent shall also file the superintendent's report required by this subsection with the State Fire Marshal Enforcement Section of the Department of Arkansas State Police.

(e)(1)(A) If the superintendent does not receive a written inspection report for a public school building as required by this section from the chief executive officer of the fire department providing fire protection to the public school building, the superintendent shall notify:

(i) The State Fire Marshal Enforcement Section of the Department of Arkansas State Police; and

(ii) The quorum court of the county in which the fire department is located.

(B) The superintendent shall provide the notifications required by this subdivision (e)(1) not less than thirty (30) days from the date the inspection was required to take place.

(2) The quorum court shall withhold from a fire department that is the subject of notification under this subsection the fire department's apportionment of distributions from the Fire Protection Premium Tax Fund under § 14-284-403 until the fire department completes the inspection and delivers the report to the superintendent.

(3) If the required inspection is subsequently performed, the fire department shall file the report required by subsection (b) of this section with the superintendent and the State Fire Marshal Enforcement Section of the Department of Arkansas State Police.

(4)(A) Immediately upon receipt of the required report from the fire department, the superintendent will notify the quorum court that the required report has been received.

(B) Upon receipt of the superintendent's notification to the quorum court, the quorum court shall disburse any Fire Protection Premium Tax Fund apportionment previously withheld due to the fire department's ineligibility under this section.

(f) The chief executive officer of the fire department may inspect any work performed by or on behalf of the school or school district to correct deficiencies noted in the inspection report.

(g) The chief executive officer of the fire department shall notify the State Fire Marshal Enforcement Section of the Department of Arkansas State Police and the Department of Education if:

(1) The chief executive officer of the fire department does not receive the superintendent's report required by subsection (d) of this section, within seven (7) days of the date the report was due; or

(2) The school district does not correct all deficiencies noted in the inspection report by the completion date indicated in the superintendent's report.

(h)(1) Any person who intentionally violates this section is subject to a fine not to exceed one hundred dollars (\$100) per violation.

(2) The failure of a public school superintendent to respond as provided in subsection (d) of this section to correct the deficiencies noted in an inspection report is an indicator of facilities distress under § 6-21-811.

History. Acts 1987, No. 152, §§ 1, 2; 1989, No. 411, § 1; 1995, No. 1296, § 28; 2005, No. 1994, § 68; 2007, No. 538, § 1; 2009, No. 376, § 45.

Amendments. The 2009 amendment substituted "report" for "by the chief executive officer of the fire department" in (d)(2)(B).

6-21-108. School districts authorized to own and convey real property — Donation of property for educational purposes and beneficial educational services only.

(a) In addition to the authority of school districts under § 6-13-620, a school district board of directors may acquire and hold real estate, tenements, hereditaments, and other real property necessary for the education of students and the administration of the school district.

(b)(1) If the board of directors for a school district determines that real property owned or controlled by the school district is not required for the present or future needs of the school district and that the donation of the real property would serve a beneficial educational service for the citizens of the school district, then the school district may donate real property to a publicly supported institution of higher education, a technical institute, a community college, a not-for-profit organization, a county, a city, or any entity thereof for the following limited purposes:

(A) Having the real property preserved, improved, upgraded, rehabilitated, or enlarged by the donee;

(B) Providing a publicly supported institution of higher education, a technical institute, or a community college with the donated property in which to hold classes; or

(C) Providing community programs and beneficial educational services, social enrichment programs, or after-school programs.

(2) A school district may donate the fee simple title and absolute interest in real property, without any reservations or restrictions, to the real property, to a publicly supported institution of higher learning, a technical institute, a community college, a not-for-profit organization, a county, or a city.

(3) If two (2) years after the effective date of consolidation the real property of the consolidated school district is not used by the school district for educational purposes and has not been sold, preserved, leased, or donated, the school district board of directors shall make the real property available to a publicly supported institution of higher education, a technical institute, a community college, a not-for-profit

organization, a county, or a city, by donation or low-cost long-term lease, for the following limited purposes:

(A) Having the real property preserved, improved, upgraded, rehabilitated, or enlarged by the donee;

(B) Providing a publicly supported institution of higher education, a technical institute, or a community college with the donated property in which to hold classes; or

(C) Providing community programs and beneficial educational services, social enrichment programs, or after-school programs.

(c) A contract, conveyance, or lease shall be executed by the president and confirmed by the secretary of the school board of directors after the contract, conveyance, or lease is authorized by a written resolution approved by a majority vote of the school district board of directors.

(d)(1) If the school district donates real property to an entity under this section, the school district shall have the right of first refusal to reacquire the real property if the entity decides to sell or otherwise dispose of the real property.

(2) The school district is not required to compensate the entity for improvements to real property reacquired under this section.

History. Acts 1999, No. 1531, § 1; 2005, No. 2260, § 2; 2013, No. 318, §§ 1, 3.

A.C.R.C. Notes. Acts 2013, No. 318, § 1, provided:

“(a) Lack of use or under-utilization of real property as a result of the consolidation of a school district can cause a significant loss of investment to the state and the communities where the real property is located.

“(b) It is in the best interest of the state and the communities where the real property is located to ensure the real property is utilized.”

Amendments. The 2013 amendment substituted “and beneficial educational services only” for “only” in the section heading; in (a), substituted “a school district” for “to have the care and custody of the schoolhouse, grounds, and other property belonging to the school district, the”, and “may” for “for any Arkansas school district shall be authorized and empowered to”; in (b)(1), substituted “property” for “estate”, “of the real property” for “thereof”, “citizens” for “pupils”, “may” for “is also empowered and authorized to”,

deleted “or any part thereof” preceding “to a”, and inserted “a county, a city”; deleted “for students who are from the school district or to educate pupils from within the donating school district even if students from outside the school district might also benefit” in (b)(1)(B); in (b)(1)(C), inserted “and beneficial educational services” and deleted “for students who are from the school district or educating pupils from within the donating school district even if other persons in the community or students from outside the school district might also benefit”; in (b)(2), inserted “in real property”, “a technical institute”, deleted “as any part of the property”, and substituted “a not-for-profit organization, a county, or a city” for “if this property was previously conveyed or otherwise transferred by the institution or college to the school district without cost”; added (b)(3); in (c), substituted “A contract, conveyance, or” for “The execution of all contracts and conveyances and”, “executed” for “performed”, “after the contract, conveyance, or lease is” for “when” and deleted “in writing and” following “resolution.”

6-21-109. Rules governing public works projects.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation, after consulting with the Arkansas Building Authority and any other entities, shall establish rules applicable to public educational entities for all public works projects when the public educational entity uses its own employees or acts as a general contractor.

(b)(1) As used in this section, "public educational entities" means Arkansas public school districts, public charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities.

(2) "Public educational entities" does not include institutions of higher education.

History. Acts 2001, No. 1204, § 1; substituted "Commission for Arkansas 2007, No. 186, § 1; 2007, No. 617, § 25; Public School Academic Facilities and 2009, No. 1472, § 1. Transportation" for "State Board of Edu-

Amendments. The 2009 amendment cation" in (a).

6-21-112. Division of Public School Academic Facilities and Transportation.

(a) In order to ensure that substantially equal access to adequate educational facilities and educational equipment is provided for all public school students in Arkansas, the General Assembly finds that a division of public school academic facilities and transportation should be established under the direct supervision of the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) There is created the Division of Public School Academic Facilities and Transportation, which shall operate under the supervision of the commission.

(c)(1) The commission shall select an individual to serve as the Director of the Division of Public School Academic Facilities and Transportation. The Director of the Division of Public School Academic Facilities and Transportation shall serve at the pleasure of the commission.

(2) The person selected as the Director of the Division of Public School Academic Facilities and Transportation shall:

(A) Be a person of good moral character and qualified technically and by experience to direct the work of the division;

(B) Have significant knowledge and experience in construction; and

(C) Have ten (10) years' experience in an administrative, supervisory, or management position.

(3) No person who is related within the fourth degree of consanguinity or affinity to any member of the commission shall be eligible to serve as the Director of the Division of Public School Academic Facilities and Transportation.

(d) The Director of the Division of Public School Academic Facilities and Transportation, with guidance and approval from the commission, shall be responsible for hiring all employees of the division.

(e)(1) The Director of the Department of Information Systems shall assign one (1) individual to serve as a technology liaison to the division.

(2) The Director of the Arkansas Building Authority shall assign one (1) individual from the staff of the Arkansas Building Authority to serve as a physical plant liaison to the division.

(f) The division shall:

(1) Provide information or assistance to the Academic Facilities Oversight Committee as requested;

(2) Use recommendations or assessments of the Academic Facilities Oversight Committee or the General Assembly as a basis for establishing the policies and procedures of the division;

(3) Develop and implement the Arkansas Public School Academic Facilities Program Act as established in § 6-21-801 et seq.;

(4) Administer the various programs of state financial participation in support of local academic facilities;

(5)(A) Develop and implement an ongoing uniform process for collecting, inventorying, and updating information on the state of condition of all public school academic facilities in the state.

(B) If the process developed is an automated statewide system, it shall encompass all school districts;

(6) Develop and implement an ongoing process for collecting records from state agencies of all lawfully required inspections of public school academic facilities conducted by state agencies and commissions;

(7) Develop a facility cost index that provides a methodology for comparing the cost of repairing the condition of a public school academic facility to the cost of replacing the public school academic facility with a facility containing the same amount of square footage;

(8) Conduct unannounced random on-site inspections of public school academic facilities;

(9) Enforce through planning minimum standards for accessibility to public school academic facilities and programs for individuals with disabilities;

(10) Develop guidelines for competitive bidding, competitive negotiation, and other methods of procurement for public school academic facilities projects;

(11) Develop incentive programs to reward school districts for innovative, effective, and efficient use of local and state resources with regard to public school academic facilities;

(12) Review applicable statutes and rules for conflicts with or omission of energy-related content;

(13) Administer the school transportation program in the various school districts of Arkansas, including without limitation:

(A) The training of school bus drivers; and

(B) The inspection of school buses, as defined in § 6-19-110;

(14) Keep records showing a description of each school district in the state, a map showing the school districts with current and accurate

boundaries, the location of the academic facilities, and the electoral zones, if any, into which each school district has been divided;

(15)(A) Report by October 1 of each year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the state of condition of academic facilities statewide using the following building and design systems:

(i) Site land and all improvements to the site, excluding permanent or temporary buildings, such as grading, drainage, drives, parking areas, walks, landscaping, and playgrounds;

(ii) Roofing;

(iii) Exterior;

(iv) Structure;

(v) Interior;

(vi) Heating, ventilation, and air conditioning;

(vii) Plumbing and water supply;

(viii) Electrical;

(ix) Technology;

(x) Fire and safety;

(xi) Specialty items, including equipment and furnishings; and

(xii) Space utilization.

(B) The report also shall include summary results of lawfully required inspections of public school academic facilities by state agencies and commissions;

(16) Report by October 1 of each even-numbered year to the Governor, the House Committee on Education, the Senate Committee on Education, and the Academic Facilities Oversight Committee on the state academic facilities master plan;

(17) Maintain a public access website dedicated to public school academic facilities; and

(18) Develop and implement a statewide facilities needs priority list that provides a methodology for:

(A) Prioritization of state school district facility needs; and

(B) Comparing the school district advancement of improving facility conditions with school district master plans.

(g) The division may:

(1) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program over which the division has authority;

(2)(A) Accept all donations, grants of money, equipment, supplies, materials, and services conditional or otherwise from private sources, from municipal and county governments, from the state, and from the federal government.

(B) The division may use any of its resources to further the division's purposes and functions; and

(3) Make and enter into all contracts, commitments, and agreements and execute all instruments necessary or incidental to the performance

of its duties and powers under this section, the Arkansas Public School Academic Facilities Program, or any other related program over which the division has authority.

(h) The Department of Education shall coordinate and share certain administrative, custodial, legal, internal finance, and other necessary personnel and responsibilities to effectuate the daily operations of the division and the department.

History. Acts 2003 (2nd Ex. Sess.), No. 90, § 2; 2005, No. 1327, § 1; 2007, No. 751, § 2; 2007, No. 989, § 16; 2007, No. 1580, § 1; 2009, No. 1473, § 14; 2009, No. 1475, § 1.

Amendments. The 2009 amendment by No. 1473 rewrote (f)(5).

The 2009 amendment by No. 1475 inserted (f)(6) and redesignated the remaining subdivisions accordingly; substituted “and rules” for “rules, and regulations” in (f)(12); rewrote (f)(13) and (f)(15); and made a stylistic change in (f)(2).

6-21-113. Advisory Committee on Public School Academic Facilities.

(a) To assist the Division of Public School Academic Facilities and Transportation, there is established the Advisory Committee on Public School Academic Facilities to be composed of the following members, who must be willing to devote adequate time to the work of the Advisory Committee on Public School Academic Facilities and who reflect the demographics of the state:

(1) The Director of the Division of Public School Academic Facilities and Transportation or the director’s designee, who shall also serve as secretary to the Advisory Committee on Public School Academic Facilities;

(2) Two (2) persons who are licensed building contractors experienced in public school construction selected from a list of no fewer than six (6) names submitted by the Arkansas Chapter of the Associated General Contractors of America;

(3) Two (2) persons who are licensed architects experienced in public school design submitted by the Arkansas Chapter of the American Institute of Architects;

(4) One (1) person who is a licensed or registered mechanical engineer experienced in public school mechanical and plumbing systems design selected from a list of no fewer than three (3) names submitted by the Arkansas Society of Professional Engineers;

(5) One (1) person who is a licensed or registered electrical engineer experienced in public school electrical systems design selected from a list of no fewer than three (3) names submitted by the Arkansas Society of Professional Engineers;

(6) One (1) person who is a licensed or registered civil engineer experienced in public school civil engineering design and construction selected from a list of no fewer than three (3) names submitted by the Arkansas Society of Professional Engineers;

(7) One (1) person selected by the Commission for Arkansas Public School Academic Facilities and Transportation who is knowledgeable

and holds certification in the field of educational technology applications and strategies;

(8) Two (2) persons selected from a list of six (6) names submitted by the Arkansas Association of Educational Administrators;

(9) One (1) person selected from a list of three (3) names submitted by the Arkansas Education Association;

(10) One (1) person selected from a list of three (3) names submitted by the Arkansas School Boards Association; and

(11) Three (3) persons, one (1) from each of the professions of construction, architecture, and education, selected by the commission to serve as ex-officio members of the Advisory Committee on Public School Academic Facilities:

(A) From the membership of the Task Force to the Joint Committee on Educational Facilities created by Act 1181 of 2003; or

(B) Based on prior service on the Advisory Committee on Public School Academic Facilities.

(b)(1)(A) All members shall serve four-year terms.

(B) One-half (1/2) of the members shall serve a term that is staggered from the remaining members' terms by two (2) years.

(C) All terms shall expire on April 1.

(2) Membership is limited to two (2) terms.

(c) Nonstate employee members of the Advisory Committee on Public School Academic Facilities shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

History. Acts 2005, No. 1424, § 2; 2013, No. 1422, §§ 1, 2.

A.C.R.C. Notes. Acts 2013, No. 1422, § 2, provided: "By August 30, 2013, the Commission for Arkansas Public School Academic Facilities and Transportation shall appoint the new members of the Advisory Committee on Public School Academic Facilities added under this act. At the first meeting of the committee that occurs on or after August 30, 2013, all members shall draw for new terms of either a term to expire on April 1, 2017, or a term to expire on April 1, 2021. A member shall not serve more than eight (8) years on the committee."

Amendments. The 2013 amendment rewrote the section.

The 2013 amendment substituted "Advisory Committee on Public School Academic Facilities and who reflect the demo-

graphics of the state" for "committee" in (a); substituted "Advisory Committee on Public School Academic Facilities" for "advisory committee" in (a)(1); in (a)(2), substituted "experienced" for "with at least five (5) years of experience" and added "selected from a list of no fewer ... Associated General Contractors of America"; rewrote (a)(3) and (4); added (a)(5), (6), and (11); redesignated former subsections (a)(6), (7), and (8) as present subsections (a)(8), (9), and (10); in (a)(7), inserted "selected by the Commission for Arkansas Public School Academic Facilities and Transportation" and substituted "and holds certification in the field of" for "in"; inserted subdivision designations in (b)(1); added (b)(1)(B); and inserted "of the Advisory Committee on Public School Academic Facilities" in (c).

6-21-114. Commission for Arkansas Public School Academic Facilities and Transportation — Created.

(a) There is created the Commission for Arkansas Public School Academic Facilities and Transportation, which shall consist of the following:

- (1) The Director of the Department of Finance and Administration;
- (2) The Commissioner of Education; and
- (3) The President of the Arkansas Development Finance Authority.

(b)(1) The members of the commission shall meet and organize immediately after March 29, 2005. The Commissioner of Education shall be the chair of the commission.

(2)(A) The commission shall meet at least quarterly and upon the call of the chair.

(B)(i) The secretary of the commission shall be an employee of the Division of Public School Academic Facilities and Transportation assigned to the commission by the chair of the commission.

(ii) The secretary shall give members advance notice of the agenda of each meeting.

(3)(A) Two (2) members of the commission shall constitute a quorum for the purpose of transacting business.

(B) A quorum is required for any action of the commission.

(4) Members of the commission shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

(c) Staff support shall be provided by appropriate personnel of the Department of Finance and Administration, the Department of Education, the Arkansas Development Finance Authority, and the division.

(d) The commission shall:

(1) Oversee the operations of the division; and

(2)(A) Promulgate rules in consultation with the Insurance Commissioner to establish property, boiler and machinery, and extended coverage insurance requirements and guidelines for all buildings, structures, facilities, and business personal property owned by a school district.

(B) The rules promulgated by the commission under subdivision (d)(2)(A) of this section shall:

(i) Attempt to provide the most cost-efficient manner for protecting each school district from loss of or damage to the school district's buildings, structures, facilities, and business personal property;

(ii) Require property, boiler and machinery, and extended coverage insurers to have a minimum A.M. Best rating;

(iii) Establish bidding requirements and procedures, if applicable to any insurance coverage; and

(iv)(a) Be binding upon each school district for any placement or renewal of insurance coverage after June 1, 2007.

(b) The state's financial participation under the Academic Facilities Partnership Program provided by § 6-20-2507 or the Academic Facilities Catastrophic Program provided by § 6-20-2508 may be withheld or reduced by the commission if a school district does not comply with the rules promulgated under subdivision (d)(2)(A) of this section.

(e) The commission may:

(1) Perform any act and provide for the performance of any function necessary or desirable to carry out the purposes of the Arkansas Public School Academic Facilities Program and any other related program;

(2)(A) Adopt, amend, and rescind rules as necessary or desirable for the administration of the Arkansas Public School Academic Facilities Program and any other related program.

(B) The commission shall report to the Subcommittee on Administrative Rules and Regulations of the Legislative Council in a manner consistent with § 10-3-309 on the adoption, amendment, rescission, or repeal of any proposed rule related to the administration of the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq., or any other related program;

(3) Contract with, retain the services of, or designate and fix the compensation of consultants, advisors, architects, engineers, and other independent contractors as may be necessary or desirable to carry out the Arkansas Public School Academic Facilities Program or any related program; and

(4) Study and promulgate rules concerning:

(A) The propriety and feasibility of requiring that each school district maintain insurance coverage against loss due to:

(i) Earth movement; or

(ii) The operation of a school district's motor vehicles and buses; and

(B) The appropriate amount of insurance coverage under this subdivision (e)(4).

(5) Receive and administer federal funds made available to the state for the purpose of assisting local school districts in providing elementary and secondary school facilities for:

(A) General education programs;

(B) Vocational programs; and

(C) Adult education programs.

(f) The commission shall report annually on its activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the interim House Committee on Education, the interim Senate Committee on Education, the State Board of Education, and the Academic Facilities Oversight Committee.

History. Acts 2005, No. 1327, § 2; 2006 (1st Ex. Sess.), No. 32, § 2; 2006 (1st Ex. Sess.), No. 33, § 2; 2007, No. 625, § 1; 2009, No. 1473, § 15.

Amendments. The 2009 amendment added (e)(5).

6-21-116. Tornado shelter construction.

(a) All building plans for new public school facilities may include a tornado shelter or a designated reinforced area designed to withstand tornadoes and high-speed winds.

(b)(1) School districts shall be required to generate funds to meet the requirements of subsection (a) of this section.

(2) School districts may apply for grant funds to assist in the construction of a tornado shelter or a designated reinforced area in new public school facilities.

(3) In calculating the amount of state financial participation in a facilities project that includes a tornado shelter or designated reinforced area, the Division of Public School Academic Facilities and Transportation shall deduct from the project cost the total amount of grant funds received by the school district for the shelter or area.

(c) Facilities constructed under this section will be subject to review under § 6-20-1407.

History. Acts 2007, No. 1584, § 1; The 2013 amendment added (b)(3).
2009, No. 1473, § 16; 2013, No. 420, § 7.

Amendments. The 2009 amendment
rewrote the section heading and (c).

6-21-117. Leased academic facilities.

An academic facility leased by a school district shall:

(1) Not be entitled to facilities program funding under § 6-20-2501 et seq.;

(2) Conform to the school facility standards defined in the Arkansas School Facility Manual;

(3) Be inspected by the Division of Public School Academic Facilities and Transportation to ensure that the facility complies with required academic facility standards prior to the execution of a lease or a renewal of an existing lease;

(4) Be eligible for a waiver commensurate with the Arkansas School Facility Manual granted by the Commission for Arkansas Public School Academic Facilities and Transportation; and

(5) Be exempt from the academic facility standards for the duration of the replacement of an academic facility that is lost due to a catastrophic event if the leased academic facility is used solely for the purpose of providing an academic facility.

History. Acts 2009, No. 1473, § 17.

SUBCHAPTER 3 — ACQUISITION OF COMMODITIES GENERALLY

SECTION.

6-21-304. Manner of making purchases.

6-21-304. Manner of making purchases.

(a)(1) All purchases of commodities by any school district, except those specifically exempted by § 6-21-305, shall be made as follows:

(A) In each instance in which the estimated purchase price shall equal or exceed ten thousand dollars (\$10,000), the commodity shall be procured by soliciting bids, provided that the purchasing official

may reject all bids and may purchase the commodity by negotiating a contract. If the purchasing official, after rejecting all bids, determines that the purchase should be made by negotiation, then each responsible bidder who submitted a bid shall be notified of the determination and shall be given a reasonable opportunity to negotiate;

(B) Open market purchases may be made when the purchase price is less than ten thousand dollars (\$10,000); and

(C) No purchasing official shall parcel or split any item or items with the intent or purpose to enable the purchase to be made under a less restrictive procedure.

(2)(A) In soliciting bids for the purchase of a commodity, a school district or a person or organization acting on behalf of a school district shall not impose qualifications or specifications that unreasonably restrict competition for the purchase of a commodity.

(B)(i) As used in this subdivision (a)(2), "specifications" means a technical description or other description of the physical or functional characteristics of a commodity.

(ii) Specifications shall not include the name or identity of any specific vendor.

(3)(A) A school district shall notify in writing all actual or prospective bidders, offerors, or contractors who make a written request to the school district for notification of opportunities to bid.

(B) Notice under subdivision (a)(3)(A) of this section shall be provided in sufficient time to allow actual or prospective bidders, offerors, or contractors to submit a bid or otherwise appropriate response.

(4)(A) Any competitive bid submitted to a school district in response to a solicitation for bids for the purchase of a commodity shall be accompanied by a form substantially similar to the following that is signed and notarized by the agent of the bidder:

"NAME OF SCHOOL DISTRICT

NAME OF COUNTY

I, _____, hereby state:

(1) I am the duly authorized agent of _____, the bidder submitting the competitive bid which is attached to this statement, for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and state officials, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the awarding of any contract pursuant to the bid to which this statement is attached.

(2) I am fully aware of the facts and circumstances surrounding the making of the bid to which this statement is attached and have been personally and directly involved in the proceedings leading to the submission of the bid.

(3) Neither the bidder nor anyone subject to the bidder's direction or control has been a party:

(A) To any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding;

(B) To any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of the prospective contract; or

(C) In any discussions between bidders and any state official concerning exchange of money or other thing of value for special consideration in the awarding of a contract.

(4) I hereby guarantee that the specifications outlined in the bid shall be followed as specified and that deviations from the specifications shall occur only as part of a formal change process approved by the Board of Directors of the school district.

Signature

Subscribed and sworn to before me this ____ day of ____, 20____.

Notary Public"

(B) Any person determined to have made a false statement on the form prescribed by subdivision (a)(4)(A) of this section or any bidder who acts contrary to the provisions of the form after its agent has executed the form shall be guilty of a Class C misdemeanor.

(5)(A) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a school district contract may protest to the superintendent of the school district in accordance with procedures established by the board of directors of the school district.

(B) Protest procedures shall include, at a minimum, provisions addressing the following:

(i) The superintendent's authority to settle and resolve a protest of an aggrieved person concerning the solicitation or award of a contract;

(ii) Submission of a protest in writing within seven (7) calendar days after the aggrieved person knows or should have known of the facts giving rise to the protest;

(iii) The provision of reasonable notice to all persons involved and reasonable opportunity for those persons to respond to the protest issues;

(iv) The issuance of a prompt decision in writing that states the reasons for the action taken which is provided to all interested parties;

(v) The impact of a protest on continuing with the solicitation or award of the school district contract pending the resolution of the protest; and

(vi) The award of costs with regard to successful protests.

(C) A decision on a protest under this section shall be final and conclusive.

(b)(1) The local school board of directors shall have exclusive jurisdiction for the purchase of Types A, B, C, and D school buses.

(2) The Commission for Arkansas Public School Academic Facilities and Transportation shall have responsibility for drawing up the minimum specifications for all school buses.

(3) An advisory committee made up of ten (10) school administrators representing all sizes of schools and all areas of the state shall assist the commission in drawing up specifications for school buses.

(4)(A) A local school board of directors may request the State Procurement Director to solicit bids for school buses on its behalf.

(B) If a request is made, the Office of State Procurement shall take bids from all school bus body and chassis manufacturers doing business in Arkansas.

(5) If a local school board of directors chooses to purchase school buses other than through the office, the board of directors shall forward no later than twenty (20) days after the bid award the following documents to the office:

(A) A copy of all the bid specifications;

(B) A list of invited bidders;

(C) Copies of all correspondence sent out by the school district to bidders and all correspondence received by the school district from bidders;

(D) A complete bid tabulation; and

(E) A copy of the bid award.

(c) For the purposes of this section:

(1) A "Type A school bus" is a conversion or body constructed upon a van-type compact truck or a front-section vehicle with a gross weight rating of ten thousand pounds (10,000 lbs.) or less and designed for carrying more than ten (10) persons;

(2) A "Type B school bus" is a conversion or body constructed and installed upon a van or front-section vehicle chassis or stripped chassis with a vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. Part of the engine is beneath or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels;

(3) A "Type C school bus" is a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. All of the engine is in front of the windshield. The entrance door is behind the front wheels; and

(4) A "Type D school bus" is a body installed upon a chassis with the engine mounted in the front, midship, or rear with a gross vehicle weight rating of more than ten thousand pounds (10,000 lbs.) and designed for carrying more than ten (10) persons. The engine may be behind the windshield and beside the driver's seat, at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

History. Acts 1983, No. 639, § 2; A.S.A. 1993, No. 896, § 2; 1997, No. 327, § 1; 1947, § 80-552; Acts 1987, No. 65, § 1; 1997, No. 820, § 2; 2005, No. 2161, § 1;

2009, No. 1473, § 18; 2013, No. 1138, § 56.

The 2013 amendment substituted “commission” for “department” in (b)(3).

Amendments. The 2009 amendment rewrote (b)(2).

SUBCHAPTER 4 — FREE TEXTBOOK ACT

SECTION.

6-21-402. Definition.

6-21-403. Requirements generally.

6-21-404. Duties of the State Board of Education generally.

6-21-405. [Repealed.]

6-21-406. Conditions for offering textbooks for adoption, sale, or exchange.

6-21-407. [Repealed.]

SECTION.

6-21-408. [Repealed.]

6-21-409. Assessment of damages for publisher’s failure to comply.

6-21-410. Illegal acts involving school officials.

6-21-412. [Repealed.]

6-21-413. Instructional materials selection committee.

6-21-402. Definition.

As used in this subchapter, “instructional materials” means:

(1) Traditional books, textbooks, and trade books in printed and bound form;

(2) Activity-oriented programs that may include:

(A) Manipulatives;

(B) Hand-held calculators; or

(C) Other hands-on material; and

(3) Technology-based materials that require the use of electronic equipment in order to be used in the learning process.

History. Acts 1975, No. 302, § 2; A.S.A. 1947, § 80-1702; Acts 1995, No. 280, § 1; 1995, No. 605, § 1; 2013, No. 511, § 1.

inserted “textbooks” in (1); deleted the (3)(A) designation and deleted former (3)(B).

Amendments. The 2013 amendment

6-21-403. Requirements generally.

(a) Public school districts shall provide instructional materials, including the availability of any equipment needed to access the instructional materials, for all pupils attending the public schools of this state in kindergarten through grade twelve (K-12), inclusive, in all subjects taught in those grades, without cost to the pupils.

(b) School districts may select their own instructional materials, including the equipment needed to access the instructional materials.

(c) Any materials purchased with state funds shall be consistent with the curriculum and educational goals established by the State Board of Education.

(d)(1)(A) The Department of Education shall monitor to ensure that all school districts in Arkansas comply with this section.

(B) The department shall report in the annual school performance report a school district that fails to provide instructional materials, including the availability of any equipment needed to access the instructional materials.

(2) The state board, through the department, may promulgate rules as may be necessary to carry out this subchapter and shall report to the members of the House Committee on Education and Senate Committee on Education annually any school district out of compliance by November 1 of each year.

(e)(1) As used in this subsection, “person” means an individual, a partnership, a corporation, a company, or an association.

(2) A person who operates in this state shall not charge a school district a price for instructional materials that exceeds the lowest contracted price currently bid in another state on the same product.

(3) A person shall sell instructional materials at the same price to all school districts in the state and must guarantee the price for the remainder of the school year.

History. Acts 1975, No. 302, §§ 2, 3; A.S.A. 1947, §§ 80-1702, 80-1703; Acts 1995, No. 280, § 2; 1995, No. 605, § 2; 2007, No. 1199, § 1; 2007, No. 1577, § 1; 2011, No. 288, § 1; 2013, No. 511, § 2.

Amendments. The 2007 amendment by No. 1577 added (d).

The 2011 amendment inserted “or digital resources, including the availability of any equipment needed to access the digital resources” in (a) and (b); subdivided (d)(1); rewrote (d)(1)(B); and, in (d)(2), substituted “House Committee on Education and Senate Committee on Education” for “House Education Committee and Senate Education Committee” and “Novem-

ber 1 of each year” for “November 1, 2007 and each year thereafter.”

The 2013 amendment deleted “or digital resources” or variations thereof throughout the section; in (a), deleted “textbooks, other” following “provide” and substituted “instructional materials” for “digital resources”; in (b), deleted “availability of any” following “including the”, substituted “instructional materials” for “digital resources, or school districts may select from the recommended state approved list”; in (d)(1)(B), deleted “textbooks, other” and substituted “instructional materials”; and added (e).

6-21-404. Duties of the State Board of Education generally.

(a) The State Board of Education may:

(1) Make rules and regulations to implement this subchapter;

(2) Require reports from school districts on the use and distribution of these items; and

(3) Do whatever else may be necessary for the general welfare of the public school instructional materials system in order to acquire the items at the lowest possible cost.

(b) The powers enumerated in this section are cumulative and not restrictive.

History. Acts 1975, No. 302, § 17; A.S.A. 1947, § 80-1717; Acts 1995, No. 280, § 3; 1995, No. 605, § 3; 1997, No. 333, § 1; 2013, No. 511, § 3.

Amendments. The 2013 amendment substituted “may” for “is authorized and

empowered to” in (a); deleted “and to provide for a statewide textbook selection committee” at the end of (a)(1); deleted “textbook and” following “school” in (a)(3); and deleted (c) and (d).

6-21-405. [Repealed.]

Publisher's Notes. Publisher's Notes. The section was derived from Acts 1975, No. 302, § 4; 1983, No. 426, § 1; A.S.A. 1947, § 80-1704; Acts 1995, No. 280, § 4; 1995, No. 605, § 4; 1997, No. 333, § 2.

This section, concerning Determination of recommended instructional materials, was repealed by Acts 2013, No. 511, § 4.

6-21-406. Conditions for offering textbooks for adoption, sale, or exchange.

(a)(1) As used in this subsection, "person" means an individual, a partnership, a corporation, a company, or an association.

(2) Before a person may offer instructional materials used in kindergarten through grade twelve (K-12), inclusive, for adoption, sale, or exchange in the State of Arkansas, the person shall, by June 30 of each year, submit to the Department of Education a certified list of:

(A) All state contracts made during the state fiscal year just ended on all instructional materials the publisher sold in this state during the state fiscal year just ended; and

(B) Instructional materials sold to each school district in Arkansas, including the price of each instructional material.

(b) All publishers doing business in Arkansas shall maintain one (1) or more book depositories at the publisher's expense in this state.

History. Acts 1975, No. 302, § 5; 1983, No. 426, § 2; A.S.A. 1947, § 80-1705; Acts 1995, No. 280, § 5; 1995, No. 605, § 5; 1999, No. 1323, § 21; 2013, No. 511, § 5.

Amendments. The 2013 amendment rewrote the section.

6-21-407. [Repealed.]

Publisher's Notes. This section, concerning contracts with publishers, was repealed by Acts 2013, No. 511, § 6. The

section was derived from Acts 1975, No. 302, § 15; A.S.A. 1947, § 80-1715; Acts 1995, No. 280, § 6; 1995, No. 605, § 6.

6-21-408. [Repealed.]

Publisher's Notes. Publisher's Notes. This section, concerning Exchange regulations, was repealed by Acts 2013, No. 511, § 7. The section was derived from Acts

1975, No. 302, § 6; A.S.A. 1947, § 80-1706; Acts 1995, No. 280, § 7; 1995, No. 605, § 7.

6-21-409. Assessment of damages for publisher's failure to comply.

(a) The State Board of Education is authorized to assess any publisher any amount of damages to the State of Arkansas for failure to comply with the terms of this subchapter or any published regulation of the state board, provided that the publisher has been given a hearing before the state board regarding the assessment of damages.

(b) If a publisher fails to reimburse the state within six (6) months after notice of assessment has been served on the publisher, the state

board may prohibit the publisher from selling instructional materials in Arkansas for a maximum period of five (5) years from the date that damages are assessed under this section.

History. Acts 1975, No. 302, §§ 7, 8; 1983, No. 426, § 3; A.S.A. 1947, §§ 80-1707, 80-1708; Acts 1989, No. 847, § 1; 1995, No. 280, § 8; 1995, No. 605, § 8; 2013, No. 511, § 8.

Amendments. The 2013 amendment substituted "this subchapter" for "the publisher's contract" in (a); and rewrote (b).

6-21-410. Illegal acts involving school officials.

(a)(1) It shall be illegal for the Commissioner of Education or any other employee connected with the Department of Education, any member of any selecting committee, or any member of any school board of directors to accept or receive any money, gift, property, or favor whatsoever from any person, firm, or corporation, or any agent thereof offering for sale any item pursuant to this subchapter or from any person in any way interested in such sale.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a Class B misdemeanor.

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the Public School Fund.

(b)(1) It shall be illegal for any teacher in the public schools of Arkansas or any person connected with the public school system of Arkansas in any capacity to have any interest in the profits, proceeds, or sale of any instructional materials used in the schools of Arkansas under his or her charge or with which he or she is connected in any official capacity. However, this provision shall not apply nor have any reference to royalties or fees received by a person from the sale of instructional materials of which he or she is the author.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a violation and subject to a fine of no less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200).

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the Public School Fund.

(c)(1) It shall be illegal for any person directly or indirectly to promise or offer to give or cause to be promised, offered, or given any money, good, bribe, present, reward, or any valuable thing whatsoever to the commissioner, his or her assistants, or any other employee of the Department of Education, the Director of the Department of Career Education, his or her assistants or any other employee of the Department of Career Education, any school board members, teachers, or other persons with the intent of influencing their decisions on any questions, matters, causes, or proceedings in the selection of instructional materials.

(2) Any person who pleads guilty or nolo contendere to or is found guilty of violating this subsection shall be guilty of a Class B misdemeanor.

(3) Any fines collected under this subsection shall be deposited into the State Treasury to the credit of the Public School Fund.

History. Acts 1975, No. 302, § 9; 1977, No. 645, § 1; A.S.A. 1947, § 80-1709; Acts 1995, No. 280, § 9; 1995, No. 605, § 9; 1999, No. 1078, § 82; 1999, No. 1323, § 22; 2005, No. 1994, § 386; 2013, No. 511, §§ 9, 10.

Amendments. The 2013 amendment

deleted “school textbooks or other” twice in (b)(1); in (c)(1), substituted “Department of Career Education” for “Department of Workforce Education” and deleted “any textbooks or other” following “selection of.”

6-21-412. [Repealed.]

Publisher’s Notes. This section, concerning the distributions of textbooks, materials, or funds, was repealed by Acts 2013, No. 511, § 11. The section was de-

rived from Acts 1975, No. 302, § 10; A.S.A. 1947, § 80-1710; Acts 1995, No. 280, § 11; 1995, No. 605, § 11.

6-21-413. Instructional materials selection committee.

(a) Each school district shall select an instructional materials selection committee.

(b) A majority of its members shall be licensed personnel, which shall include classroom teachers.

History. Acts 1975, No. 302, § 11; A.S.A. 1947, § 80-1711; Acts 1995, No. 280, § 12; 1995, No. 605, § 12; 2013, No. 511, § 12; 2013, No. 1138, § 57.

Amendments. The 2013 amendment by No. 511 substituted “Instructional materials” for “Local” in the section heading;

added subsection designations; in (a), substituted “an instructional materials” for “a textbook” and deleted “to be composed of a” at the end; substituted “of its members shall be licensed” for “certified” in (b).

The 2013 amendment by No. 1138 substituted “licensed” for “certified.”

SUBCHAPTER 6 — MISCELLANEOUS OFFENSES

SECTION.

6-21-609. Prohibition against smoking, the use of tobacco or to-

bacco products, or the use of e-cigarettes.

6-21-609. Prohibition against smoking, the use of tobacco or tobacco products, or the use of e-cigarettes.

(a) As used in this section, “e-cigarette” means an electronic oral device that provides a vapor of nicotine or another substance that, when used or inhaled simulates smoking, including without limitation a device that:

(1) Is composed of a heating element, battery, or electronic circuit, or a combination of heating element, battery, and electronic circuit;

- (2) Works in combination with a liquid nicotine delivery device composed either in whole or in part of pure nicotine and propylene glycol and manufactured for use with e-cigarettes; and
- (3) Is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, or under any other name or descriptor.
- (b) Smoking tobacco, the use of tobacco or tobacco products, or the use of e-cigarettes is prohibited:
 - (1) In or on real property owned or leased by a public school district, including a public charter school; or
 - (2) In or on personal property, including without limitation school buses, owned or leased by a public school district, including a public charter school.
- (c) A copy of this statute shall be posted in a conspicuous location at every entrance to each building owned or leased by a public school district and every school bus used to transport public school students.
- (d) A person who violates this section commits a violation punishable by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100).

History. Acts 1987, No. 854, §§ 1, 2; 1997, No. 779, § 1; 1999, No. 1555, § 1; 2005, No. 1994, § 70; 2013, No. 1099, § 1.

Amendments. The 2013 amendment rewrote (a) and present (b); redesignated former (b) and (c) as present (c) and (d); in (d), substituted “A person who violates” for “Any person violating the provisions of”, “commits” for “shall be guilty of”, and “punishable” for “and upon conviction shall be punished.”.

SUBCHAPTER 8 — ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES
PROGRAM ACT

SECTION.	SECTION.
6-21-803. Definitions.	6-21-811. Academic Facilities Distress Program.
6-21-806. Academic Facilities Master Plan Program — School districts.	6-21-812. Facilities distress — Student transfers.
6-21-808. Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual.	6-21-813. Inspections.

Effective Dates. Acts 2013, No. 600, § 24: Apr. 4, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that state oversight and intervention into distressed school districts is critical to the delivery of a constitutionally adequate education; and that the changes made in this act are immediately necessary for the state to meet this constitutional obligation. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may

veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 1227, § 7: Apr. 16, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the Arkansas Public School Choice Act of 1989, § 6-18-206, have been found to be unconstitutional by a federal court; that thousands of public school students are currently attending public schools in nonresident school districts under that law; that there is now uncertainty about the viability of those transfers and future transfers; that this act repeals the disputed provisions of that law

while preserving the opportunity for public school choice; and that this act is immediately necessary to resolve the uncertainty in the law before the 2013-2014 school year and preserve existing student transfers. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-21-803. Definitions.

As used in this subchapter:

(1)(A) “Academic facility” means a building or space, including related areas such as the physical plant and grounds, where public school students receive instruction that is an integral part of an adequate education as described in § 6-20-2302.

(B) A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in § 6-16-137 shall not be considered an academic facility for the purposes of this subchapter to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under § 6-16-132.

(C) Buildings or spaces, including related areas such as the physical plant and grounds, used for prekindergarten education shall not be considered academic facilities for purposes of this subchapter.

(D) District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purposes of this subchapter.

(E) A leased facility shall not be considered an academic facility for the purpose of this subchapter;

(2) “Annexation” means the joining of an affected school district or part of the school district with a receiving district under § 6-13-1401 et seq.;

(3) “Consolidation” means the joining of two (2) or more school districts or parts of the districts to create a new single school district under § 6-13-1401 et seq.;

(4) “Custodial activities” means routine and renovation cleaning activities related to the daily operations and upkeep of a public school facility, including related supervisory and management activities;

(5) "Facilities distress status" means a public school district identified by the Division of Public School Academic Facilities and Transportation as being in academic facilities distress status and classified by the Commission for Arkansas Public School Academic Facilities and Transportation as being in academic facilities distress status under this subchapter;

(6) "Facilities improvement plan" means a remedial plan developed by a school district for a public school or school district classified as being in academic facilities distress that supplements the school district's facilities master plan by:

(A) Identifying specific interventions and actions the public school or school district will undertake in order to correct deficient areas of practice with regard to custodial, maintenance, repair, and renovation activities with regard to academic facilities in the school district; and

(B) Describing how the school district will remedy those areas in which the school district is experiencing facilities distress, including the designation of the time period by which the school district will correct all deficiencies that placed the school district in facilities distress status;

(7) "Facilities master plan" means a six-year plan developed by a school district that contains:

(A) Enrollment projections for ten (10) years from the date of the plan;

(B) The school district's strategy for maintaining, repairing, renovating, and improving through new construction or otherwise the school district's academic facilities and equipment; and

(C) Other information as required by law;

(8) "Foundation funding" means the same as in § 6-20-2303;

(9) "Local resources" means any moneys lawfully generated by a school district for the purpose of funding the school district's share of financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the division;

(10) "Maintenance, repair, and renovation" means any activity or improvement to a public school facility that maintains, conserves, or protects the state, condition, or efficiency of the public school facility;

(11)(A) "New construction" means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state, condition, or efficiency of the academic facility to a state of condition or efficiency better than the academic facility's current condition of completeness or efficiency.

(B) "New construction" includes a new addition to an existing academic facility and construction of a new academic facility;

(12) "Project" means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

(B) New construction of an academic facility; or

(C) Any combination of maintenance, repair, and renovation activities with regard to an academic facility and new construction activities with regard to an academic facility;

(13) “Public school facility” means any public school building or space, including related areas such as the physical plant and grounds, that is used for any purpose, including, without limitation:

(A) An extracurricular activity;

(B) An organized physical activity course as defined in § 6-16-137;

(C) Prekindergarten education;

(D) District administration; or

(E) Delivery of instruction to public school students that is an integral part of an adequate education as described in § 6-20-2302;

(14) “Reconstitution” means the reorganization of the administrative unit or the governing board of directors of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school board of directors, or both;

(15) “School district” means a geographic area that:

(A) Is governed by an elected board of directors that conducts the daily affairs of public schools under the supervisory authority vested in it by the General Assembly and § 6-13-101 et seq.; and

(B) Qualifies as a taxing unit for purposes of ad valorem property taxes under Arkansas Constitution, Article 14, § 3; and

(16) “Space utilization” means the number of gross square feet per student in an academic facility adjusted for academic program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 4; 2007, No. 827, § 116; 2009, No. 1473, § 19; 2011, No. 1006, §§ 8-10; 2013, No. 600, § 17.

Amendments. The 2007 amendment rewrote (15).

The 2009 amendment added (1)(E).

The 2011 amendment substituted “six-year” for “ten-year” in the introductory language of (7); rewrote (7)(A); deleted (10)(B); and substituted “current” for “original” near the end of (11)(A).

The 2013 amendment, in (5), substituted “identified” for “determined” and inserted “and classified by the Commission for Arkansas Public School Academic Facilities and Transportation as being in academic facilities distress status” preceding “under”; and substituted “classified” for “identified” in the introductory language of (6).

6-21-806. Academic Facilities Master Plan Program — School districts.

(a) The Academic Facilities Master Plan Program shall require each school district to:

(1) Develop a six-year districtwide facilities master plan that shall be approved by the school district’s board of directors for submission to and

approval by the Division of Public School Academic Facilities and Transportation;

(2) Base its facilities master plan on the provisions of the Arkansas Public School Academic Facility Manual as adopted by the Commission for Arkansas Public School Academic Facilities and Transportation, on priorities indicated by statewide assessment, on priorities established by the division statewide facility needs priority list, and on other pertinent data specific to the needs of the school district with regard to academic facilities and equipment;

(3) Present a draft of the school district's facilities master plan in a public hearing in the same locality as the school district and take public comments;

(4) Submit evidence of the school district's insurance coverage to the division, including coverage amounts, types of coverage, identification of buildings covered, policy renewal dates, and all riders;

(5) Submit the school district's facilities master plan with a summary of comments made at public hearing to the division by February 1 of each even-numbered year; and

(6) Submit a report to the division by February 1 of each odd-numbered year that includes a description of all projects completed in the school district since the submission of the school district's most recent facilities master plan, the school district's current enrollment projections, new or continuing needs of the school district with regard to academic facilities and equipment, and an accounting of any changes in the school district's insurance coverage from the most recent submission.

(b) A facilities master plan shall include, at a minimum, the following:

(1) A schedule of custodial activities for each public school facility used by a school district;

(2) A schedule of maintenance, repair, and renovation activities for each public school facility used by a school district. The schedule shall distinguish between work associated with academic facilities and work associated with nonacademic public school facilities;

(3) Documentation that describes preventive maintenance work for each public school facility and identifies the completion date of the work. The documentation shall distinguish between preventive maintenance work associated with academic facilities and preventive maintenance work associated with nonacademic public school facilities;

(4)(A) Annual expenditures of the school district for all custodial, maintenance, repair, and renovation activities in the school district.

(B) The section of the facilities master plan pertaining to the annual expenditures under subdivision (b)(4) of this section shall distinguish between expenditures associated with academic facilities and expenditures associated with nonacademic public school facilities;

(5) A projected replacement schedule for major building systems in each public school facility;

(6) Identification of issues with regard to public school facility and program access to individuals with disabilities and, if necessary, proposed methods for improving access;

(7)(A) Identification of committed projects within the school district that includes, as applicable, a breakdown of the portion of each project into maintenance, repair, and renovation activities and new construction activities.

(B) The portion of a committed project pertaining to maintenance, repair, and renovation activities shall identify, as applicable, maintenance, repair, and renovation activities associated with academic facilities and maintenance, repair, and renovation activities associated with nonacademic public school facilities;

(8) Annual expenditures of the school district for capital outlay;

(9) A description of planned new construction projects with cost estimates for each public school facility within the school district and needs prioritized as follows:

(A) Immediate needs that the school district intends to address within three (3) years following the submission of the facilities master plan; and

(B) Long-term needs that the school district intends to address within the four (4) to six (6) years following the submission of the facilities master plan; and

(10) Evidence of the school district's insurance coverage, including coverage amounts, types of coverage, identification of public school facilities covered, policy renewal dates, and all riders.

(c)(1) The division shall establish procedures and timelines for a school district to submit a preliminary facilities master plan or a master plan outline to the division before the submission of the school district's final facilities master plan.

(2) The preliminary facilities master plan or master plan outline shall form the basis for a consultation meeting between representatives of the school district and members of the division.

(3) As soon as practicable after submission of the preliminary facilities master plan or master plan outline, the division shall hold the consultation meeting with the school district to:

(A) Assure understanding of the general goals of this subchapter and the criteria by which projects will be evaluated;

(B) Discuss ways the facilities master plan may be structured to meet the goals of this subchapter;

(C) Assist school districts to prepare accurate budgets and reasonable project schedules; and

(D) Provide for efficiency and productivity in the approval process for local academic facilities projects and state financial participation in local projects.

(d) The division shall review and upon all requirements' being met approve a school district's facilities master plan no later than September 1 of each even-numbered year and shall notify a school district no later than May 1 of each odd-numbered year whether the school

district's application for state financial participation during the upcoming biennium in an eligible new construction project has been approved.

(e)(1) A school district may amend its facilities master plans at any time during the six-year cycle specified in § 6-21-803.

(2) An amendment may be submitted out of the regular even-numbered year cycle if the school district:

(A) Has encountered:

- (i) A major enrollment change;
- (ii) A major curriculum change;
- (iii) A major disaster; or
- (iv) An unforeseen occurrence; or

(B)(i) Has begun or completed a self-funded construction project over which the division has only review authority.

(ii) An amendment submitted under subdivision (e)(2)(B)(i) of this section may be submitted in the form of an appendix to the existing school district facilities master plan.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 6; 2007, No. 989, §§ 16, 17; 2009, No. 1473, § 20; 2011, No. 1006, §§ 11, 12, 12[13].

Amendments. The 2007 amendment inserted "on priorities established by the division statewide facility needs priority list" in (a)(2); substituted "July 1 of each even-numbered year" for "July 1, 2006" in (a)(4); substituted "public school facility" for "academic facility" in (b)(5); deleted former (b)(6) and (b)(7) and redesignated the remaining subdivisions in (b) accordingly; and added (e).

The 2009 amendment deleted "by July 1 of each even-numbered year" following "the division" in (a)(4).

The 2011 amendment substituted "six-year" for "ten-year" in (a)(1); substituted "Long-term" for "Short-term" in (b)(9)(B); deleted (b)(9)(C) and (d)(1); redesignated (d)(2) as (d); in (d), deleted "Except as provided in subdivision (d)(1) of this section" from the beginning and inserted "upon all requirements being met"; and substituted "six-year" for "ten-year" in (e)(1).

6-21-808. Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual.

(a) The purposes of the Public School Facilities Custodial, Maintenance, Repair, and Renovation Manual and this section are to:

(1) Provide for the long-term conservation and protection of public school facilities;

(2) Eliminate the deterioration of existing and future public school facilities;

(3) Provide a safe and healthy environment for students, teachers, administrators, and staff of the public schools; and

(4) Provide for the efficient use of state and local funds in support of academic facilities in each school district in the state.

(b)(1) The manual shall contain standards for custodial operations related to public school facilities.

(2) Standards for custodial operations in public school facilities shall include the following:

- (A) The required contents of a custodial care plan;
- (B) A suggested schedule for routine care and renovation cleaning;
- (C) Levels of personnel necessary to perform custodial operations;

(D) Training criteria for the use and storage of supplies and equipment, with emphasis given to chemical right-to-know, indoor air quality, and other applicable standards;

(E) Supplies and equipment necessary to perform custodial operations, including space standards for the proper storage of supplies and equipment;

(F) In-service training opportunities for custodial personnel;

(G) Designation of routine duties;

(H) Designation of renovation cleaning duties; and

(I) Suggested schedule for the sanitary inspection of all school buildings.

(c)(1) The manual shall contain standards for maintenance, repair, and renovation activities related to public school facilities.

(2) Standards for maintenance, repair, and renovation activities in public school facilities shall include the following:

(A) The required contents of a preventive maintenance plan, which shall include guidelines for:

(i) Scheduling preventive maintenance activities for public school facilities;

(ii) Preparing and retaining documentation that describes preventive maintenance work related to public school facilities and identifies the completion date of the work;

(iii) Scheduling lawfully required inspections of public school facilities conducted by state agencies and commissions; and

(iv) Scheduling the inspections specified by the Commission for Arkansas Public School Academic Facilities and Transportation relating to safe, dry, and healthy public school facilities;

(B)(i) Development and implementation of a work-request system to allow others to inform a public school's maintenance department of needs and to allow the responsible person to prioritize responses.

(ii)(a) School districts shall be required to participate in any state-level computerized maintenance management system designed to track work orders and preventative maintenance work established by the division at no cost to the school district.

(b) The cost associated with additional maintenance modules by a school district shall be at the expense of the school district and may be within the nine-percent minimum maintenance expenditures under § 6-21-808(d)(1)(A);

(C) Levels of personnel necessary to perform maintenance operations;

(D) Training criteria for maintenance personnel with regard to:

(i) School policies;

(ii) Safety procedures;

(iii) Use of specialized equipment;

(iv) Compliance with federal, state, county, and municipal laws and regulations impacting public school facilities and equipment; and

(v) Other applicable areas;

(E) In-service training opportunities for maintenance personnel;

(F) Inspection, cleaning, servicing, and repair of heating, ventilation, and air-conditioning systems;

(G) Inspection and repair of:

- (i) Electrical systems;
- (ii) Hot water boilers and heaters;
- (iii) Fire alarms;
- (iv) Fire extinguishers and kitchen hood vent suppression systems;
- (v) Emergency lighting and exit light fixtures;
- (vi) Elevators and wheelchair lifts;
- (vii) Plumbing;
- (viii) Roofs;
- (ix) Stairwell areas;
- (x) Interior and exterior lighting;
- (xi) Doors and windows;
- (xii) Floor coverings;
- (xiii) Masonry and concrete building exteriors;
- (xiv) Interior and exterior finishes;
- (xv) Kitchen equipment;
- (xvi) Sidewalks, driveways, parking areas, and paved play areas; and

(xvii) Parking lots, handicap parking spaces, driveways, fire and emergency vehicle zones, and bus and car loading and unloading areas;

(H) Inspection and repair and servicing of fire sprinkler systems;

(I) Maintenance of a pest control program;

(J) Inspection of playground equipment; and

(K) Grounds maintenance.

(d)(1)(A) Each school district shall dedicate nine percent (9%) of its foundation funding exclusively to payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(B)(i) If any amount of the dedicated nine percent (9%) is unspent at the end of the school district's fiscal year, the funds shall carry over, and the school district shall transfer the remaining amount into a public school facilities escrow account.

(ii) A school district may use funds from its public school facilities escrow account in any fiscal year for payment of utilities and costs of custodial, maintenance, repair, and renovation activities, which include related personnel costs, for public school facilities.

(iii) If a school district wants to use funds from its public school facilities escrow account for new construction, the school district shall apply to the Division of Public School Academic Facilities and Transportation for its approval. If the division authorizes the release of funds from the school district's public school facilities escrow account and approves the new construction, the school district may use the funds as authorized by the division.

(2)(A) A school district is not required to use funds in its public school facilities escrow account for new construction.

(B)(i) New construction shall be funded by local resources, which may include funds in the school district's public school facilities escrow account if approved by the division.

(ii) In addition, new construction may be eligible for state financial participation.

History. Acts 2005, No. 1426, § 1; 2006 (1st Ex. Sess.), No. 19, § 7; 2009, No. 1473, §§ 21, 22; 2009, No. 1475, § 2.

The 2009 amendment by No. 1475 added (c)(2)(A)(iii) and (c)(2)(A)(iv) and made related changes.

Amendments. The 2009 amendment by No. 1473 added (b)(2)(I); and rewrote (c)(2)(B).

6-21-811. Academic Facilities Distress Program.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall classify a public school or school district as being in academic facilities distress if the Division of Public School Academic Facilities and Transportation recommends and the commission concurs that the public school or school district has engaged in actions or inactions that result in any of the following:

(1) Any act or violation determined by the division to jeopardize any academic facility used by a public school or school district, including, but not limited to:

(A) Material failure to properly maintain academic facilities in accordance with this subchapter and rules adopted by the commission;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or laws;

(C) Material violation of applicable building code provisions or law;

(D) Material failure to provide timely and accurate facilities master plans to the division;

(E) Material failure to comply with state law governing purchasing, bid requirements, or school-construction-related laws or rules in relation to academic facilities projects;

(F) Material default on any school district debt obligation; or

(G) Material failure to plan and progress satisfactorily toward accomplishing the priorities established by the division and the approved school district's facilities master plan; and

(2) Any other condition of an academic facility or facilities in a public school or school district that is determined by the division to have a detrimental impact on educational services provided by that public school or school district.

(b) The division shall provide written notice, via certified mail, return receipt requested, to the president of the board of directors and the superintendent of the school district identified or containing a school identified by the division as being in facilities distress.

(c)(1) By August 31 of each year, the division shall notify the superintendent of a school district if the division is aware the school

district has experienced two (2) or more indicators of facilities distress in one (1) school year that the division deems to be nonmaterial but that without intervention could place the district in facilities distress.

(2) The superintendent of a school district shall report to the division if the superintendent is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the superintendent deems to be nonmaterial but that without intervention could place the district in facilities distress.

(3)(A) The division and the superintendent shall review all data related to the nonmaterial indicators of facilities distress.

(B)(i) Within thirty (30) days of the division's determination that the school district may be experiencing facilities distress at a non-material level, the division shall provide a notice to the school district's superintendent and board of directors that:

(a) Describes the nonmaterial indicators of facilities distress that could have a detrimental impact on educational services provided by the affected public school or the school district if not addressed; and

(b) Identifies the support available from the division to address each nonmaterial indicator of facilities distress.

(ii) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of facilities distress.

(4)(A) If any condition of an academic facility raises a significant health or safety issue, the superintendent of the school district where the academic facility is located or the person responsible for the management of the academic facility shall immediately notify the division and the board of directors of the school district.

(B) The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of the significant health or safety issue.

(d)(1) A public school or school district classified by the commission as being in facilities distress shall develop a facilities improvement plan within thirty (30) days from the date of classification and promptly submit the facilities improvement plan to the division for review and approval.

(2) A public school or school district shall review and revise its facilities improvement plan on a periodic basis as determined by the division and submit the updated facilities improvement plan to the division in order for the division to determine whether the public school or school district is correcting its deficient areas of practice regarding academic facilities.

(3) A school district shall use facilities improvement plans as necessary to supplement and update its facilities master plan.

(e)(1) Every two (2) years, the division shall determine whether the progress of each school district complies with the school district's facilities master plan and shall notify the school district of any noncompliance.

(2) Every two (2) years, the division shall review the applications made for the Academic Facilities Partnership Program established

under § 6-20-2507, to identify any school district that did not apply for state funding for necessary facilities to meet adequacy requirements and shall notify the school district of any deficiencies.

(3) Within thirty (30) days of receiving the notice provided under subdivision (e)(1) or (e)(2) of this section, the school district shall submit a facilities improvement plan to the division for its review and approval that states how the school district will address the noncompliance issues contained in the notice.

(4) If the division does not approve the facilities improvement plan submitted by the school district, it shall identify the school district as being in facilities distress.

(5) A school district may appeal the identification of the division under this subsection to the commission pursuant to the procedures established by the commission;

(f)(1)(A) Within ten (10) days of a school district's failure to pass a millage required to fulfill its obligations under the school district's facilities master plan, the division shall provide written notice to the school district of the date, time, and place for a conference with the school district at which the division will:

(i) Determine whether as a result of the failed millage there are facilities issues relating to:

(a) Immediate repairs under § 6-20-2504(b)(4);

(b) The presence and number of suitability needs of public school academic facilities, which shall be defined by rule; or

(c) Immediate need for academic facilities to meet student growth; and

(ii) Thoroughly discuss and explain the sanctions and requirements that are available to the commission if the school district or a school within the district is classified by the commission as being in facilities distress under this section and § 6-21-812.

(B) The written notice shall be provided via certified mail to the president of the school board of directors and the superintendent of the school district.

(C) The commission shall establish rules for the implementation of this subdivision (f)(1).

(2)(A) If the commission determines that there are immediate repairs, growth, or suitability issues that require expedited attention, the commission may direct the school district to conduct a special election to vote on a millage increase.

(B)(i) The division and the school district shall agree upon the issues to be submitted for a vote in the special election.

(ii) The special election may not include any issues other than the issues that are mutually agreed upon.

(C) The special election shall be held on a date that is:

(i) Mutually agreed upon by the division and the school district; and

(ii) Not later than seven (7) months from the date of the election at which the millage failed unless it is necessary to extend the date

beyond seven (7) months because of restrictions on the number of elections that may be held within a calendar year.

(D) If within ninety (90) days from the notice provided to the school district under subdivision (f)(1)(A) of this section the school district has not set an election date, the division shall identify the school district as being in facilities distress.

(E)(i) If the school district is able to finance the immediate repairs, growth, and suitability improvements without the necessity of a special election on increasing its millage, the school district may enter into an agreement with the division to fund its improvements separately, which shall include an implementation timeframe.

(ii) The division shall identify the school district as being in facilities distress for failure to implement the agreed upon plan for immediate repairs, growth, and suitability improvements within the timeframe specified in the agreement.

(g) When a school district is classified by the commission to be in facilities distress, the division may with the approval of the commission:

(1)(A) Provide on-site technical evaluation and assistance and make written recommendations to the school district superintendent regarding the care and maintenance of any academic facility in the school district.

(B) Any school district classified as being in facilities distress status shall accept on-site technical evaluation and assistance from the division.

(C) The written recommendations of the division are binding on the school district, the superintendent, and the board of directors;

(2) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the school district, and:

(A) Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the Commissioner of Education; and

(B) Compensate from school district funds the individual appointed to operate the school district;

(3) Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(4) Require the school district to operate without a board of directors under the supervision of the superintendent or an individual or panel appointed by the commissioner;

(5) Waive the application of Arkansas law or the corresponding State Board of Education rules and regulations, with the exception of:

(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.; and

(B) The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.;

(6) In the absence of a school district board of directors, direct the commissioner to assume all authority of the board of directors as may be necessary for the day-to-day governance of the school district;

(7)(A) Return the administration of the school district to the former board of directors or place the administration of the school district in a newly elected board of directors if:

(i) The division certifies in writing to the commission and to the school district that the school district has corrected all issues that caused the classification of facilities distress; and

(ii) The commission determines the school district has corrected all issues that caused the classification of facilities distress.

(B) If the division calls for an election of a new school district board of directors, the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

(8) Require school district staff and employees to attend training in areas of concern for the public school or school district;

(9)(A) Require a school district to cease all expenditures related to activities not described as part of an adequate education in § 6-20-2302 and place money that would have been spent on the activities into an academic facilities escrow account to be released only upon approval by the division for use in conjunction with a local academic facilities project.

(B) School districts shall include a clause addressing this contingency in all contracts with personnel who are involved with activities not described as part of an adequate education;

(10) Notify the public school or school district in writing that the deficiencies regarding academic facilities shall be corrected within a time period designated by the division;

(11)(A) Petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in facilities distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interest of students in the school district.

(B) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(C) Except as set forth in subsection (m) or subdivision (g)(11)(D) of this section, the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in facilities distress within five (5) consecutive school years of classification of facilities distress status.

(D) The state board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district;

(12) Correct the failure of a school district to complete its agreed plan or to pass the millage in the special election under subdivision (f)(2) of this section by contracting for and completing the necessary improvements under the agreed plan;

(13)(A) If the division recommends and the commission concurs that the academic facilities in the public school district in facilities distress are inadequate to provide an adequate education, the state board may dissolve the school district and transfer students to public schools in other public school districts.

(B) The state board shall assign the public school district's territory, property, and debt; and

(14) Take any other action allowed by law that is deemed necessary to assist a public school or school district in correcting the issues that caused the classification of facilities distress, to secure and protect the best interest of the educational resources of the state, or to provide for the best interest of students in the school district.

(h) No school district identified by the division as being in facilities distress may incur any debt without the prior written approval of the commission.

(i) A public school or school district in facilities distress may petition the commission for removal from facilities distress status only after the division has certified in writing that the public school or school district has corrected all criteria for being classified as in facilities distress and has complied with all division recommendations and requirements for removal from facilities distress status.

(j) The division shall submit a written evaluation on the status of each school district in facilities distress to the commission and the state board at least one (1) time every six (6) months.

(k)(1)(A) If a school district is classified by the commission as being in facilities distress and has immediate repairs, growth, or suitability improvement issues, the division, in addition to any other remedy under this section and § 6-21-812, may provide a loan to the school district to be repaid from any funds available that are not required to provide an adequate education.

(B)(i) Funds available that are not required to provide an adequate education include:

(a) Fund balances and any cash on hand that are not part of foundation funding or categorical funding under § 6-20-2305 and are not otherwise required to provide an adequate education for students in the public school district; and

(b) Revenues that are not obligated on bonds.

(ii) Funds remaining after the annual payment on a bond obligation are included in funds that are not required to provide an adequate education.

(2) The public school district shall repay the loan on the schedule determined by the division.

(l) The commission in conjunction with the Academic Facilities Oversight Committee shall:

(1) Reexamine the role and function of the State Facility Assessment of 2004;

(2) Assess the progress made by the state in the mandates of the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, No. 01-836; and

(3) Make needed changes in the implementation of the academic facilities program by modifying the commission's rules.

(m) If the division or commissioner assumes authority over a public school district in facilities distress under subsection (g) of this section, the commission may pursue the following process for returning a public school district to the local control of its residents:

(1) During the second school year following a school district's classification as being in facilities distress status, the commission shall determine the extent of the school district's progress toward correcting all issues that caused the classification of facilities distress;

(2)(A) If the commission determines that sufficient progress has been made by a school district toward correcting all criteria for being classified as in facilities distress, but the school district has not yet resolved all issues that caused the classification of facilities distress, the commissioner, with the approval of the commission, may appoint a community advisory board of either five (5) or seven (7) members to serve under the supervision and approval of the commissioner.

(B) The members of the community advisory board shall be residents of the school district and shall serve on a voluntary basis without compensation.

(C) The Department of Education shall cause to be provided to the community advisory board technical assistance and training in, at a minimum, the areas required in § 6-13-629.

(D) The duties of the community advisory board include without limitation:

(i) Meeting monthly during a regularly scheduled public meeting with the state-appointed administrator regarding the progress of the school or school district toward correcting all issues that caused the classification of facilities distress;

(ii) Seeking community input from the residents of the school district regarding the progress of the school or school district toward correcting all issues that caused the classification of facilities distress;

(iii) Conducting hearings and making recommendations to the commissioner regarding personnel and student discipline matters as set forth in the appropriate district policies;

(iv) Working to build community capacity for the continued support of the school district; and

(v) Submitting quarterly reports to the commissioner and the commission regarding the progress of the school or school district toward correcting all issues that caused the classification of facilities distress.

(E) The members of the community advisory board shall serve at the pleasure of the commissioner until:

(i) The school district is returned to local control and a permanent school district board of directors is elected and qualified; or

(ii) The state board, upon petition of the commission or division annexes, consolidates, or reconstitutes the school district pursuant to this title or under another provision of law;

(3) By April 1 of each year following the appointment of a community advisory board pursuant to subdivision (m)(2) of this section, the commission shall determine the extent of the school district's progress toward correcting all criteria for being classified as in facilities distress and shall:

(A) Allow the community advisory board to remain in place for an additional year;

(B)(i) Return the school district to local control by calling for the election of a newly elected school district board of directors if:

(a) The division certifies in writing to the commission and to the school district that the school district has corrected all issues that caused the classification of facilities distress; and

(b) The commission determines the school district has corrected all issues that caused the classification of facilities distress.

(ii) If the division or commission calls for an election of a new school district board of directors, the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law; or

(C) Petition the state board for the annexation, consolidation, or reconstitution of the school district under this section; and

(4)(A) If the division, with the approval of the commission, calls for an election of a new school district board of directors pursuant to subdivision (g)(7) of this section, the commissioner, with the approval of the commission, may appoint an interim board of directors to govern the school district until a permanent school district board of directors is elected and qualified.

(B) The interim board of directors shall consist of either five (5) or seven (7) members.

(C) The members of the interim board of directors shall be residents of the school district and otherwise eligible to serve as board members under applicable law.

(D) The members of the interim board of directors shall serve on a voluntary basis without compensation.

(n)(1) If, by the end of the fifth school year following the school district's classification of facilities distress status, the school district in facilities distress has not corrected all issues that caused the classification of facilities distress, the state board, upon petition from the commission or division and after a public hearing, shall consolidate, annex, or reconstitute the school district under this section.

(2) The state board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself

from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

(o) This section does not prevent the division, commission, or state board from taking any of the actions listed in this section at any time to address a public school or school district in facilities distress.

History. Acts 2005, No. 1426, § 1; 2007, No. 989, § 18; 2007, No. 996, § 2; 2009, No. 798, § 2; 2009, No. 1473, § 23; 2013, No. 600, §§ 18–23.

Amendments. The 2009 amendment by No. 798 added the (1) designation in (b); inserted present (c); and redesignated the remaining subsections accordingly.

The 2009 amendment by No. 1473 inserted “or school construction related laws or rules” in (a)(1)(E) and made related changes.

The 2013 amendment substituted “classify” for “identify” in the introductory language of (a); in (b), deleted “public school or” preceding “school district” and inserted “or containing a school identified by the division; in (d)(1), substituted “classified by the commission” for “identified” and “classification” for “receipt of the notice”; deleted “beginning February 1, 2009” following “years” in (e)(1); substituted “Every two (2) years” for “Beginning on February 1, 2008, and each biennium

thereafter” in (e)(2); substituted “identification” for “decision” in (e)(5); substituted “or a school within the district is classified by the commission” for “is identified” in (f)(1)(A)(ii); in (g), substituted “classified” for “identified” twice; rewrote (g)(2); deleted former (g)(3) and (6); redesignated the remaining subdivisions accordingly; added “or an individual or panel appointed by the commissioner” at the end of (g)(4); added present (g)(5) and (6); added subdivision designations in (g)(7) ; in (g)(11)(C), substituted “Except as set forth in subsection (m) or subdivision (g)(11)(D) of this section, the” for “The”, “classification” for “receipt of notice of identification” and deleted “by the division” at the end; added (g)(11)(D); in (g)(14), substituted “correcting the issues that cause the classification” for “removing criteria” and added “to secure and protect ... students in the school district” to the end; substituted “classified by the commission” for “identified” in (k)(1)(A); added (m) and (o).

6-21-812. Facilities distress — Student transfers.

(a)(1) Any student attending a public school district classified as being in facilities distress shall automatically be eligible and entitled under the Public School Choice Act of 2013, § 6-18-1901 et seq., to transfer to another school district not in facilities distress during the time period that a district is classified as being in facilities distress.

(2) The student is not required to file a petition by June 1 but shall meet all other requirements and conditions of the Public School Choice Act of 2013, § 6-18-1901 et seq.

(b) The resident district shall pay the cost of transporting the student from the resident district to the nonresident district.

(c) The nonresident district shall count the student for average daily membership purposes.

History. Acts 2005, No. 1426, § 1; 2013, No. 1227, § 5.

Amendments. The 2013 amendment substituted “Arkansas Public School Choice Act of 1989, § 6-18-206” for “Public

School Choice Act of 2013, § 6-18-1901 et seq” in (a)(1) and (a)(2); deleted “geographically contiguous” following “transfer to another” in (a)(1); and substituted “July 1” for “June 1” in (a)(2).

6-21-813. Inspections.

(a) The Division of Public School Academic Facilities and Transportation shall conduct random unannounced on-site inspections of all academic facilities to ensure compliance with the school district's facilities master plan and, if applicable, the school district's facilities improvement plan in order to preserve the integrity of and extend the useful life of public school academic facilities and equipment across the state.

(b) The division shall submit reports regarding its on-site inspections of academic facilities to the Commission for Arkansas Public School Academic Facilities and Transportation within thirty (30) days of completion of the on-site inspections.

(c) Based on the division's on-site inspection or notification by the division to the Commission for Arkansas Public School Academic Facilities and Transportation that the changes or additions to a school district's facilities master plan or facilities improvement plan required by the division have not been implemented within the time period prescribed by the division, the Commission for Arkansas Public School Academic Facilities and Transportation shall restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the General Assembly.

(d) The division shall work with state agencies and commissions requesting inspection assistance for those areas in which the state agency or commission has primary responsibility to conduct lawfully required inspections.

(e) The division shall work with school districts, state agencies, and state commissions to ensure that:

(1) All lawfully required inspections of academic facilities are performed, including without limitation scheduled, unscheduled, or emergency inspections of or concerning:

- (A) Boilers;
- (B) Electrical systems;
- (C) Heating, ventilation, and air conditioning systems;
- (D) Natural gas piping systems;
- (E) Liquid propane gas systems;
- (F) Plumbing systems, including without limitation reduced pressure zone valves;
- (G) Indoor air quality systems;
- (H) Fire prevention;
- (I) Elevators;
- (J) Occupational safety and health issues;
- (K) Water wells; and
- (L) Asbestos; and

(2) The division receives the same report on the same date that a school district receives a report concerning a lawfully required scheduled or unscheduled inspection or reinspection of an academic facility.

(f) If an inspection or code violation is reported in the course of an inspection or reinspection conducted by a state agency or commission,

the division shall work closely with the school district and the appropriate state agency or commission to ensure the violation is remedied within thirty (30) days of the date the inspection or code violation is reported or as soon as reasonably possible thereafter.

History. Acts 2005, No. 1426, § 1; 2009, No. 1475, § 3.

A.C.R.C. Notes. Acts 2013, No. 1202, § 44, provided: “ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM. The Arkansas Department of Environmental Quality shall adopt policies before September 1, 2012 to ensure its cooperation regarding provision to the Division of Public School Academic Facilities

and Transportation copies of the reports of inspections required under Arkansas Code § 6-21-813 (d) through (f) for the Arkansas Public School Academic Facilities Program Act.”

Amendments. The 2009 amendment deleted “that have been funded wholly or in part by moneys from the state” preceding “to ensure” in (a); and added (d) through (f).

CHAPTER 22

ARKANSAS REGISTERED VOLUNTEERS PROGRAM ACT

SECTION.

6-22-101. Legislative findings and intent.

6-22-103. Definitions.

6-22-105. Registered volunteers — Requirements.

SECTION.

6-22-108. Construction.

6-22-101. Legislative findings and intent.

(a) The General Assembly recognizes that the effective use of volunteers in the public schools can provide greater opportunities for students to participate in school-sponsored extracurricular and interscholastic activities, which many local school districts otherwise could not provide due to funding limitations and lack of availability of licensed personnel.

(b) The General Assembly further recognizes that volunteers in the public schools should be properly screened and have effective training before they have significant unsupervised contact with students.

(c) The General Assembly intends by this chapter to provide for the establishment of a registered volunteers program in order that local school districts, students, and staff may have the advantages of services from duly qualified volunteers who, in turn, will have more incentive to offer their time and talents for the benefit of Arkansas school children.

History. Acts 1997, No. 1012, § 1; 2013, No. 1138, § 58.

substituted “licensed personnel” for “certified personnel” in (a).

Amendments. The 2013 amendment

6-22-103. Definitions.

As used in this chapter:

(1) “Extracurricular activity” means any intraschool activity that is outside the regular curriculum, including, but not limited to, sports and special interest clubs or groups;

(2) “Interscholastic activity” means any interschool activity that is outside the regular curriculum, including, but not limited to, sports and special interest clubs or groups which are subject to regulations of the Arkansas Activities Association;

(3) “Registered volunteer” means any volunteer who, subject to Arkansas Activities Association regulations and rules set by the local school district, is given written authorization by the school district to lead extracurricular activities or to assist a staff member who is a licensed employee of the school district in extracurricular activities or interscholastic activities; and

(4) “Volunteer” means any person who, of his or her own free will, provides services without any financial gain to any local school district.

History. Acts 1997, No. 1012, § 3; substituted “licensed employee” for “certified employee” in (3).
2013, No. 1138, § 59.

Amendments. The 2013 amendment

6-22-105. Registered volunteers — Requirements.

The superintendent of any school district that develops a registered volunteers program under this chapter shall require all potential registered volunteers to meet the following qualifications before the volunteers have any significant unsupervised contact with students:

(1) To authorize release of the results of a statewide and nationwide criminal records check by the Identification Bureau of the Department of Arkansas State Police that conforms to the applicable federal standards, which includes the taking of the potential volunteer’s fingerprints, and which is dated not more than ninety (90) days prior to the date of its presentation; and

(2) To complete a minimum of six (6) hours of training conducted under the direction of the school district for nonathletic extracurricular or nonathletic interscholastic activities and a minimum of twelve (12) hours of training conducted under the direction of the school district for athletic extracurricular activities or under the direction of the Arkansas Activities Association for athletic interscholastic activities.

History. Acts 1997, No. 1012, § 5; the introductory paragraph; deleted former (2), and redesignated former (3) as (2).
2013, No. 231, § 2.

Amendments. The 2013 amendment substituted “under” for “as set forth in” in

6-22-108. Construction.

None of the provisions of this chapter shall be construed as to prohibit a school district from utilizing the services of the volunteers who operate under the supervision of licensed school personnel.

History. Acts 1997, No. 1012, § 8; substituted “licensed school; personnel”
2013, No. 1138, § 60. for “certified school personnel”.

Amendments. The 2013 amendment

CHAPTER 23

ARKANSAS CHARTER SCHOOLS ACT OF 1999

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. CONVERSION PUBLIC CHARTER SCHOOLS.
3. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS.
4. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — OPERATION.
5. OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING.
6. LIMITED PUBLIC CHARTER SCHOOLS.
7. PUBLIC CHARTER SCHOOL AUTHORIZER.
8. OPEN ENROLLMENT PUBLIC CHARTER SCHOOL CAPITAL GRANT PROGRAM.
9. THE OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL FACILITIES LOAN FUND.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

- 6-23-101. Title.
- 6-23-103. Definitions.
- 6-23-104. Charter form for public charter schools — Requirements — Revision.
- 6-23-105. Basis and procedure for public charter school probation or

SECTION.

- charter modification, revocation, or denial of renewal.
- 6-23-106. Impact on school desegregation efforts.
- 6-23-107. Reporting requirements.

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the

bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor

vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is

vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-23-101. Title.

This chapter shall be known and cited as the “Arkansas Quality Charter Schools Act of 2013”.

History. Acts 1999, No. 890, § 1; 2013, No. 509, § 1.

substituted “‘Arkansas Quality Charter Schools Act of 2013’ ” for “‘Arkansas Charter Schools Act of 1999’.”

Amendments. The 2013 amendment

6-23-103. Definitions.

As used in this chapter:

(1) “Application” means the proposal for obtaining conversion public charter school status, open-enrollment public charter school status, or limited public charter school status;

(2) “Authorizer” means an entity that authorizes a charter, which may be either the:

(A) Department of Education; or

(B) State Board of Education acting under § 6-23-703;

(3) “Charter” means a performance-based contract for an initial five-year period between the authorizer and an approved applicant for public charter school status that exempts the public charter school from state and local rules, regulations, policies, and procedures specified in the contract and from the provisions of this title specified in the contract;

(4) “Conversion public charter school” means a public school that has converted to operating under the terms of a charter approved by the local school board and the authorizer;

(5) “Eligible entity” means:

(A) A public institution of higher education;

(B) A private nonsectarian institution of higher education;

(C) A governmental entity; or

(D) An organization that:

(i) Is nonsectarian in its program, admissions policies, employment practices, and operations; and

(ii) Has applied for tax exempt status under § 501(c)(3) of the Internal Revenue Code of 1986;

(6) “Founding member” means any individual who is either:

(A) A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or

(B) A member of the initial governing nonadvisory board of the open-enrollment public charter school;

(7) “Limited public charter school” means a public school that has converted to operating under the terms of a limited public charter approved by the local school board and the authorizer;

(8) “Local school board” means a board of directors exercising the control and management of a public school district;

(9)(A) “Open-enrollment public charter school” means a public school that:

(i) Is operating under the terms of a charter granted by the authorizer on the application of an eligible entity;

(ii) May draw its students from any public school district in this state; and

(iii) Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as it existed on April 10, 2009.

(B) “Open-enrollment public charter school” also possesses the same meaning as given the term “charter school” in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April 10, 2009;

(10) “Parent” means any parent, legal guardian, or other person having custody or charge of a school-age child;

(11) “Public school” means a school that is part of a public school district under the control and management of a local school board; and

(12) “Public charter school” means a conversion public charter school, an open-enrollment public charter school, or a limited public charter school.

History. Acts 1999, No. 890, § 3; 2003 (2nd Ex. Sess.), No. 22, § 2; 2005, No. 2005, § 2; 2007, No. 736, § 1; 2009, No. 1469, § 18; 2013, No. 509, § 2.

Amendments. The 2009 amendment rewrote (8).

The 2013 amendment inserted (2) and redesignated the remaining subsections accordingly; substituted “authorities” for “State Board of Education” in (3); substituted “authorizer” for “state board” in (4), (7) and (9)(A)(i).

6-23-104. Charter form for public charter schools — Requirements — Revision.

(a) A charter for a public charter school shall:

(1) Be in the form of a written contract signed by the Commissioner of Education and the chief operating officer of the public charter school;

(2) Satisfy the requirements of this chapter; and

(3) Ensure that the information required under § 6-23-404 is consistent with the information provided in the application and any modification that the authorizer may require.

(b) Any revision or amendment of the charter for a public charter school may be made only with the approval of the authorizer.

History. Acts 1999, No. 890, § 10; 2007, No. 736, § 2; 2009, No. 1469, § 19; 2013, No. 509, § 2.

Amendments. The 2009 amendment substituted “Chair of the State Board of Education” for “Commissioner of Education” in (a)(1).

The 2013 amendment substituted “Commissioner” for “Chair of the State Board” in (a)(1); substituted “authorizer” for “State Board of Education” in (a)(3); and “authorizer” for “state board” in (b).

6-23-105. Basis and procedure for public charter school probation or charter modification, revocation, or denial of renewal.

(a) The authorizer may place a public charter school on probation or may modify, revoke, or deny renewal of its charter if the authorizer determines that the persons operating the public charter school:

(1) Committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

(2) Failed to satisfy generally accepted accounting standards of fiscal management;

(3) Failed to comply with this chapter or other applicable law or regulation; or

(4) Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the authorizer.

(b) Any action the authorizer may take under this section shall be based on the best interests of the public charter school's students, the severity of the violation, and any previous violation the public charter school may have committed.

(c) The authorizer shall adopt a procedure to be used for placing a public charter school on probation or modifying, revoking, or denying renewal of the school's charter.

(d)(1) The procedure adopted under this section shall provide an opportunity for a hearing to the persons operating the public charter school.

(2)(A) The hearing shall be held at the Department of Education.

(B) The authorizer shall provide sufficient written notice of the time and location of the hearing.

(3) There is no further right of appeal beyond the determination of the authorizer.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to a hearing concerning a public charter school.

History. Acts 1999, No. 890, § 11; 2005, No. 2005, § 3; 2007, No. 736, § 3; 2009, No. 1469, § 23; 2013, No. 509, § 2.

Amendments. The 2009 amendment deleted "and to the parents of students enrolled in the public charter school" at the end of (d)(1).

The 2013 amendment substituted "authorizer" for "State Board of Education" and "state board" throughout the section; and rewrote (d)(2)(A).

6-23-106. Impact on school desegregation efforts.

(a) The applicants for a public charter school, the local school board for the district in which a proposed public charter school would be located, and the authorizer shall carefully review the potential impact of an application for a public charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

(b) The authorizer shall attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.

(c) The authorizer shall not approve any public charter school under this chapter or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.

History. Acts 1999, No. 890, § 15; 2005, No. 2005, § 4; 2007, No. 736, § 4; 2013, No. 509, § 2.

Amendments. The 2013 amendment, in (a), substituted “the local school board

for the district” for “local school board” and “authorizer” for “State Board of Education”; and substituted “authorizer” for “state board” in (b) and (c).

6-23-107. Reporting requirements.

(a) Within ten (10) calendar days of the close of the first quarter of each school year, a public charter school shall submit a written report to the Department of Education that contains the following information for the current school year:

(1) The number of applications for enrollment received;

(2) The number of applicants with a disability identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

(3) The number of applications for enrollment the public charter school denied and an explanation of the reason for each denial.

(b) Within ten (10) calendar days of the close of the fourth quarter of each school year, a public charter school shall submit a written report to the department that contains the following information for the current school year:

(1) The number of students in each of the following categories:

(A) Students who dropped out of the public charter school during the school year;

(B) Students who were expelled during the school year by the public charter school; and

(C) Students who were enrolled in the public charter school but for a reason other than those cited in subdivisions (b)(1)(A) and (B) did not complete the school year at the public charter school; and

(2)(A) For all students enrolled in the public charter school, the scores for assessments required under the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., including without limitation benchmark assessments and end-of-course assessments.

(B) If there is any discrepancy in the number of students for whom scores are reported under this subdivision (b)(2) and the number of students enrolled at the beginning of the school year, the public charter school shall explain in the report the reason for the discrepancy.

(c) The department shall not exempt a public charter school from the reporting required under this section.

(d) The department shall publish a copy of each report on the department's website.

(e) If a public charter school fails to comply with this section, the department shall note the failure in the annual evaluation of the public charter school.

History. Acts 2011, No. 993, § 3.

SUBCHAPTER 2 — CONVERSION PUBLIC CHARTER SCHOOLS

SECTION.

6-23-201. Application for conversion public charter school status.

6-23-202. Authorization for conversion public charter school status.

SECTION.

6-23-203. Resubmission of applications.

6-23-204. Charter renewal.

6-23-205. Teacher hires when charter revoked.

6-23-201. Application for conversion public charter school status.

(a)(1) Any public school district may apply to the authorizer for conversion public charter school status for a public school in the public school district in accordance with a schedule approved by the authorizer.

(2) A public school district's application for conversion public charter school status for the public school may include, but shall not be limited to, the following purposes:

(A) Adopting research-based school or instructional designs, or both, that focus on improving student and school performance;

(B) Addressing school improvement status resulting from sanctions listed in §§ 6-15-207(c)(8) and 6-15-429(a) and (b); or

(C) Partnering with other public school districts or public schools to address students' needs in a geographical location or multiple locations.

(b) Such application shall:

(1)(A) Describe the results of a public hearing called by the local school board for the purpose of assessing support of an application for conversion public charter school status.

(B) Notice of the public hearing shall be:

(i) Distributed to the community, licensed personnel, and the parents of all students enrolled at the public school for which the public school district initiated the application; and

(ii) Published in a newspaper having general circulation in the public school district at least three (3) weeks prior to the date of the meeting;

(2) Describe a plan for school improvement that addresses how the conversion public charter school will improve student learning and meet the state education goals;

(3) Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the

conversion public charter school in improving student learning and meeting or exceeding the state education goals;

(4) Describe how the licensed employees and parents of students to be enrolled in the conversion public charter school will be involved in developing and implementing the school improvement plan and identifying performance criteria;

(5) Describe how the concerns of licensed employees and parents of students enrolled in the conversion public charter school will be solicited and addressed in evaluating the effectiveness of the improvement plan; and

(6) List the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the conversion public charter school will be exempt.

(c)(1) A licensed teacher employed by a public school in the school year immediately preceding the effective date of a charter for a public school conversion within that public school district may not be transferred to or be employed by the conversion public charter school over the licensed teacher's objection, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

(2) If the transfer of a teacher within the public school district is not possible because only one (1) public school exists for that teacher's licensure level, then the local school board shall call for a vote of the licensed teachers in the proposed conversion public charter school site and proceed, at the local school board's option, with the conversion public charter school application if a majority of the licensed teachers approve the proposal.

History. Acts 1999, No. 890, § 4; 2001, No. 1311, § 1; 2005, No. 2005, § 5; 2007, No. 736, § 5; 2013, No. 509, § 3; 2013, No. 1138, §§ 61, 62.

Amendments. The 2013 amendment by No. 509, in (a)(1), substituted "autho-

rizer" for "State Board of Education" and substituted "authorizer" for "state board."

The 2013 amendment by No. 1138 substituted "licensed" for "certified" throughout section.

6-23-202. Authorization for conversion public charter school status.

As requested by the conversion public charter school applicant, the State Board of Education shall review the application for conversion public charter school status and may approve any application that:

(1) Provides a plan for improvement at the school level for improving student learning and for meeting or exceeding the state education goals;

(2) Includes a set of performance-based objectives and student achievement objectives for the term of the charter and the means for measuring those objectives on at least a yearly basis;

(3) Includes a proposal to directly and substantially involve the parents of students to be enrolled in the conversion public charter

school, as well as the licensed employees and the broader community, in the process of carrying out the terms of the charter; and

(4) Includes an agreement to provide a yearly report to parents, the community, the local school board, and the state board that indicates the progress made by the conversion public charter school in meeting the performance objectives during the previous year.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 6; 2013, No. 509, § 4; 2013, No. 1138, § 63.

Amendments. The 2013 amendment by No. 509 substituted “authorizer” for “State Board of Education” in the intro-

ductory language; and substituted “authorizer” for “state board” in (4).

The 2013 amendment by No. 1138 substituted “licensed employees” for “certified employees” in (3).

6-23-203. Resubmission of applications.

(a) The authorizer may allow applicants to resubmit applications for conversion public charter school status if the original application was, in the opinion of the authorizer, deficient in one (1) or more respects.

(b) The Department of Education may provide technical assistance to the conversion public charter school applicants in the creation or modification of these applications.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 7; 2013, No. 509, § 4.

Amendments. The 2013 amendment,

in (a), substituted “authorizer” for “State Board of Education” and “authorizer” for “state board.”

6-23-204. Charter renewal.

The authorizer may renew charters of conversion public charter schools on a one-year or multiyear basis, not to exceed five (5) years, after the initial five-year period if the renewal is approved by the local school board.

History. Acts 1999, No. 890, § 4; 2005, No. 2005, § 6; 2007, No. 736, § 8; 2013, No. 509, § 4.

Amendments. The 2013 amendment substituted “authorizer may” for “State Board of Education is authorized to.”

6-23-205. Teacher hires when charter revoked.

If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the charter is employed by a conversion public charter school and the charter is revoked, the licensed teacher will receive a priority in hiring for the first available position for which the licensed teacher is qualified in the public school district where the licensed teacher was formerly employed.

History. Acts 1999, No. 890, § 4; 2007, No. 736, § 9; 2013, No. 1138, § 64.

Amendments. The 2013 amendment

substituted “licensed teacher” for “certified teacher” in throughout the section.

SUBCHAPTER 3 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS

SECTION.

- 6-23-301. Application forms and procedures for open-enrollment public charter schools.
- 6-23-302. Application for an open-enrollment public charter school.
- 6-23-303. Authorization for an open-enrollment public charter school.
- 6-23-304. Requirements — Preference for certain districts.

SECTION.

- 6-23-305. Notice of disapproval — Assistance with resubmission of application.
- 6-23-306. Contents of open-enrollment public charters.
- 6-23-307. Renewal of charter.
- 6-23-308. Priority hiring for teachers.
- 6-23-310. Status report.

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-23-301. Application forms and procedures for open-enrollment public charter schools.

(a) The authorizer shall adopt:

(1) An application form, a schedule, and a procedure that must be used to apply for a charter for an open-enrollment public charter school; and

(2) Criteria to use in selecting a program for which a charter may be granted.

(b) The application form must provide space for including all information required under this chapter to be contained in the charter.

(c) [Repealed.]

History. Acts 1999, No. 890, § 8; 2007, No. 736, § 12; 2011, No. 993, § 4; 2013, No. 509, § 5.

The 2013 amendment substituted “authorizer” for “State Board of Education” in the introductory language.

Amendments. The 2011 amendment deleted (c).

6-23-302. Application for an open-enrollment public charter school.

(a) Pursuant to the provisions of this chapter, an eligible entity may apply to the authorizer to grant a charter for an open-enrollment public charter school to operate in a facility of a commercial or nonprofit entity or a public school district.

(b) The application to the authorizer for an open-enrollment public charter school shall be made in accordance with a schedule approved by the authorizer.

(c) The application shall:

(1)(A) Describe the results of a public hearing called by the applicant for the purpose of assessing support for an application for an open-enrollment public charter school.

(B)(i) Notice of the public hearing shall be published one (1) time a week for three (3) consecutive weeks in a newspaper having general circulation in the public school district in which the open-enrollment public charter school is likely to be located.

(ii) The last publication of notice shall be no less than seven (7) days before the public meeting.

(iii) The notice shall not be published in the classified or legal notice section of the newspaper.

(C)(i) Within seven (7) calendar days following the first publication of notice required under subdivision (c)(1)(B) of this section, letters announcing the public hearing shall be sent to the superintendent of each of the public school districts from which the open-enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

(ii) An affected school district may submit written comments concerning the application to the authorizer to be considered at the time of the authorizer’s review of the application;

(2) Describe a plan for academic achievement that addresses how the open-enrollment public charter school will improve student learning and meet the state education goals;

(3) Outline the proposed performance criteria that will be used during the initial five-year period of the open-enrollment public charter

school operation to measure its progress in improving student learning and meeting or exceeding the state education goals;

(4) List the specific provisions of this title and the specific rules and regulations promulgated by the state board from which the open-enrollment public charter school seeks to be exempted;

(5)(A) Describe the facility to be used for the open-enrollment public charter school and state the facility's current use.

(B) If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school board of the public school district in an agreement governing the relationship between the open-enrollment public charter school and the public school district.

(C) If the facility that will be used for the open-enrollment public charter school is owned by or leased from a sectarian organization, the terms of the facility agreement must be disclosed to the authorizer; and

(6) Include a detailed budget and a governance plan for the operation of the open-enrollment public charter school.

(d)(1)(A) The application may be reviewed and approved by the local school board of the public school district in which the proposed open-enrollment public charter school will operate.

(B) The applicant may submit to the authorizer for expedited review an application approved by the local school board under subdivision (d)(1)(A) of this section.

(2)(A) However, if the local school board disapproves the application, the applicant shall have an immediate right to proceed with a written notice of appeal to the authorizer.

(B) The authorizer shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal or a request for review.

(C) All interested parties may appear at the hearing and present relevant information regarding the application.

(e) A licensed teacher employed by a public school district in the school year immediately preceding the effective date of a charter for an open-enrollment public charter school operated at a public school facility may not be transferred to or be employed by the open-enrollment public charter school over the licensed teacher's objections.

History. Acts 1999, No. 890, § 5; 2001, No. 1311, § 2; 2005, No. 2005, § 7; 2007, No. 736, § 13; 2009, No. 1469, § 20; 2011, No. 993, § 5; 2013, No. 509, §§ 6–9.

Amendments. The 2009 amendment rewrote (c)(1)(C).

The 2011 amendment substituted “be located” for “draw students for the purpose of enrollment” at the end of (c)(1)(B)(i); deleted former (c)(1)(B)(iv); de-

leted “and the facility’s use for the immediately preceding three (3) years” following “current use” in (c)(5)(A); added (d)(1)(B); substituted “may be” for “shall be first” in (d)(1)(A); added “or a request for review” at the end of (d)(2)(B); and substituted “licensed” for “certified” in (e).

The 2013 amendment substituted “authorizer” for “State Board of Education” in (a); substituted “authorizer” for “state

board” or variations thereof throughout the section; substituted “before” for “days prior to” in (e)(1)(B)(ii).

6-23-303. Authorization for an open-enrollment public charter school.

As requested by the applicant for an open-enrollment public charter school, the authorizer shall review the application for an open-enrollment public charter school and may approve any application that:

- (1) Provides a plan for academic achievement that addresses how the open-enrollment public charter school proposes to improve student learning and meet the state education goals;
- (2) Includes a set of performance criteria that will be used during the initial five-year period of the open-enrollment public charter school’s operation to measure its progress in meeting its academic performance goals;
- (3) Includes a proposal to directly and substantially involve the parents of students to be enrolled in the open-enrollment public charter school, the licensed employees, and the broader community in carrying out the terms of the open-enrollment charter;
- (4) Includes an agreement to provide an annual report to parents, the community, and the authorizer that demonstrates the progress made by the open-enrollment public charter school during the previous academic year in meeting its academic performance objectives;
- (5) Includes a detailed budget, a business plan, and a governance plan for the operation of the open-enrollment public charter school; and
- (6) Establishes the eligible entity’s status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code of 1986 prior to the first day of its operation with students.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 14; 2013, No. 509, § 10; 2013, No. 1138, § 65.

Amendments. The 2013 amendment by No 509 substituted “authorizer” for “State Board of Education” in the intro-

ductory language; and substituted “authorizer” for “state board” in (4).

The 2013 amendment by No. 1138 substituted “licensed employees” for “certified employees” in (a).

6-23-304. Requirements — Preference for certain districts.

(a) The authorizer may approve or deny an application based on:

- (1) Criteria provided by law or by rule adopted by the State Board of Education;
- (2) Findings of the authorizer relating to improving student performance and encouraging innovative programs; and
- (3) Written findings or statements received by the authorizer from any public school district likely to be affected by the open-enrollment public charter school.

(b) The authorizer shall give preference in approving an application for an open-enrollment public charter school to be located in any public school district:

(1) When the percentage of students who qualify for free or reduced-price lunches is above the average for the state;

(2) When the district has been classified by the state board as in academic distress under § 6-15-428; or

(3) When the district has been classified by the Department of Education as in some phase of school improvement status under § 6-15-426 or some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the state board.

(c)(1)(A) The department, the State Board of Education, or a combination of the department and state board may grant no more than a total of twenty-four (24) charters for open-enrollment public charter schools except as provided under subdivision (c)(1)(B) of this section.

(B) If the cap on the number of charters available for an open-enrollment public charter school is within two (2) charters of meeting any existing limitation or cap on available open-enrollment charters, the number of available charters shall automatically increase by five (5) slots more than the most recent existing limitation or cap on open-enrollment charters.

(C) By March 1 each year, the department shall issue a commissioner's memo stating the existing limitation on the number of charters available for open-enrollment public charter schools and the number of charters available for open-enrollment public charter schools during the next application cycle.

(2) An open-enrollment public charter applicant's school campus shall be limited to a single open-enrollment public charter school per charter except as allowed in subdivision (d) of this section.

(3) An open-enrollment public charter school shall not open in the service area of a public school district administratively reorganized under § 6-13-1601 et seq. until after the third year of the administrative reorganization.

(4) A private or parochial elementary or secondary school shall not be eligible for open-enrollment public charter school status.

(d) A charter applicant that receives an approved open-enrollment public charter may petition the authorizer for additional licenses to establish an open-enrollment public charter school in any of the various congressional districts in Arkansas if the applicant meets the following conditions:

(1) The approved open-enrollment public charter applicant has demonstrated academic success as defined by the state board for all public schools;

(2) The approved open-enrollment public charter applicant has not:

(A) Been subject to any disciplinary action by the authorizer;

(B) Been classified as in academic or fiscal distress; and

(C) Had its open-enrollment public charter placed on charter school probation or suspended or revoked under § 6-23-105; and

(3) The authorizer determines in writing by majority of a quorum present that the open-enrollment public charter applicant has gener-

ally established the educational program results and criteria set forth in this subsection.

History. Acts 1999, No. 890, §§ 5, 8, 13; 2001, No. 1311, § 3; 2005, No. 2005, § 8; 2007, No. 736, § 15; 2007, No. 827, § 117; 2009, No. 376, § 46; 2011, No. 987, § 1; 2011, No. 993, § 6; 2013, No. 509, § 10.

Amendments. The 2009 amendment inserted (c)(4); deleted former (d), and redesignated the remaining subdivisions accordingly; substituted “(d)(3)” for “(c)(6)” in (c)(2) and (d)((3)(C); and made minor stylistic changes.

The 2011 amendment by No. 987, in (c)(1)(A), added “Beginning with the 2011-

2012 school year” at the beginning and inserted “except as provided under subdivision (c)(1)(B) of this section”; and added (c)(1)(B) and (C).

The 2011 amendment by No. 993 rewrote (d).

The 2013 amendment substituted “authorizer” for “State Board of Education” and “state board” throughout; rewrote (c)(1)(A); substituted “(d)” for “(d)(3)” in (c)(2); and rewrote (d).

6-23-305. Notice of disapproval — Assistance with resubmission of application.

(a) If the authorizer disapproves an application for an open-enrollment public charter school, the authorizer shall notify the applicant in writing of the reasons for such disapproval.

(b) The authorizer may allow the applicant for an open-enrollment public charter school to resubmit its application if the original application was found to be deficient by the authorizer.

(c) The Department of Education may provide technical assistance to the applicant for an open-enrollment public charter school in the creation or modification of its application.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 16; 2013, No. 509, § 10.

Amendments. The 2013 amendment

substituted “authorizer” for “State Board of Education” in (a); and substituted “authorizer” for “state board” in (b) and (c).

6-23-306. Contents of open-enrollment public charters.

An open-enrollment public charter granted under this subchapter shall:

- (1) Describe the educational program to be offered;
- (2) Specify the period for which the open-enrollment public charter or any renewal is valid;
- (3) Provide that the continuation or renewal of the open-enrollment public charter is contingent on acceptable student performance on assessment instruments adopted by the State Board of Education and on compliance with any accountability provision specified by the open-enrollment public charter, by a deadline, or at intervals specified by the open-enrollment public charter;
- (4) Establish the level of student performance that is considered acceptable for purposes of subdivision (3) of this section;
- (5) Specify any basis, in addition to a basis specified by this chapter, on which the open-enrollment public charter school may be placed on

probation or its charter is revoked or on which renewal of the open-enrollment public charter may be denied;

(6) Prohibit discrimination in admissions policy on the basis of gender, national origin, race, ethnicity, religion, disability, or academic or athletic eligibility, except as follows:

(A) The open-enrollment public charter school may adopt admissions policies that are consistent with federal law, regulations, or guidelines applicable to charter schools;

(B) The open-enrollment public charter school may allow a weighted lottery to be used in the student selection process when necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation; and

(C) The open-enrollment public charter may provide for the exclusion of a student who has been expelled from another public school district in accordance with this title;

(7) Specify the grade levels to be offered;

(8) Describe the governing structure of the program;

(9) Specify the qualifications to be met by professional employees of the program;

(10) Describe the process by which the persons providing the program will adopt an annual budget;

(11) Describe the manner in which the annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the persons providing the program will provide information necessary for the public school district in which the program is located to participate;

(12) Describe the facilities to be used, including the terms of the facility utilization agreement if the facility for the open-enrollment public charter school is owned or leased from a sectarian organization;

(13) Describe the geographical area, public school district, or school attendance area to be served by the program;

(14)(A) Specify methods for applying for admission, enrollment criteria, and student recruitment and selection processes.

(B)(i)(a) Except as provided in subdivision (14)(C) of this section, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept by the annual deadline that the open-enrollment public charter school has established for the receipt of applications for the next school year, the open-enrollment public charter must require the open-enrollment public charter school to use a random, anonymous student selection method that shall be described in the charter application.

(b)(1) If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the completion of the random, anonymous student selection method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

(2) The waiting list is valid until the next time the open-enrollment public charter school is required to conduct a random, anonymous student selection.

(ii) However, an open-enrollment public charter school may allow a preference for:

(a)(1) Children of the founding members of the eligible entity.

(2) The number of enrollment preferences granted to children of founding members shall not exceed ten percent (10%) of the total number of students enrolled in the open-enrollment public charter school; and

(b) Siblings of students currently enrolled in the open-enrollment public charter school.

(C) The open-enrollment public charter may use a weighted lottery in the student selection process only when necessary to comply with a:

(i) Federal court order; or

(ii) Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, or the equal protection clause of the Fourteenth Amendment to the United States Constitution; and

(15) Include a statement that the eligible entity will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions, including hiring and retention of administrators, teachers, and other employees whose salaries or benefits are derived from any public moneys.

History. Acts 1999, No. 890, § 9; 2001, No. 463, § 1; 2007, No. 736, § 17; 2009, No. 1469, § 21; 2011, No. 993, § 7.

Amendments. The 2009 amendment rewrote (6).

The 2011 amendment added (14)(B)(i)(b); inserted "by the annual dead-

line that the open-enrollment public charter school has established for the receipt of applications for the next school year" in (14)(B)(i)(a); and rewrote (14)(C).

RESEARCH REFERENCES

Ark. L. Rev. Charter Schools: Racial-Balancing Provisions and Parents Involved, 61 Ark. L. Rev. 1.

6-23-307. Renewal of charter.

After the initial five-year period of an open-enrollment public charter, the authorizer may renew the open-enrollment public charter on a one-year or multiyear basis, not to exceed twenty (20) years.

History. Acts 1999, No. 890, § 5; 2001, No. 736, § 18; 2011, No. 993, § 8; 2013, No. 1311, § 4; 2005, No. 2005, § 9; 2007, No. 509, § 11.

Amendments. The 2011 amendment substituted “twenty (20)” for “five (5).” The 2013 amendment substituted “authorizer” for “State Board of Education.”

6-23-308. Priority hiring for teachers.

If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the open-enrollment public charter is employed by an open-enrollment public charter school and the open-enrollment public charter is revoked, the licensed teacher will receive a priority in hiring for the first available position for which the licensed teacher is qualified in the public school district where the licensed teacher was formerly employed.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 19; 2013, No. 1138, § 66. substituted “licensed teacher” for “certified teacher” throughout this section.

Amendments. The 2013 amendment

6-23-310. Status report.

The authorizer shall report on the status of the open-enrollment public charter school programs to the General Assembly each biennium and to the House Committee on Education and the Senate Committee on Education during the interim between regular sessions of the General Assembly.

History. Acts 1999, No. 890, § 5; 2007, No. 736, § 21; 2013, No. 509, § 12. substituted “authorizer” for “State Board of Education” and deleted “Interim” preceding “Committee” twice.

Amendments. The 2013 amendment

**SUBCHAPTER 4 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS —
OPERATION**

SECTION.

- 6-23-402. Enrollment numbers and deadline.
- 6-23-404. Evaluation of open-enrollment public charter schools.

SECTION.

- 6-23-405. Monthly reports.
- 6-23-406. Department of Education review.

Effective Dates. Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately

necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may

veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-23-402. Enrollment numbers and deadline.

(a) An open-enrollment public charter school may enroll a number of students not to exceed the number of students specified in its charter.

(b)(1) Any student enrolling in an open-enrollment public charter school shall enroll in that school by July 30 for the upcoming school year during which the student will be attending the open-enrollment public charter school.

(2) However, if a student enrolled by July 15 should no longer choose to attend the open-enrollment public charter school or if the open-enrollment public charter school has not yet met its enrollment cap, the open-enrollment public charter school may enroll a number of replacement or additional students not to exceed the enrollment cap of the open-enrollment public charter school.

(c) Open-enrollment public charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the Department of Education.

History. Acts 1999, No. 890, § 7; 2001, No. 1311, § 5; 2005, No. 2005, § 10; 2007, No. 736, § 23; 2011, No. 989, § 74; 2011, No. 993, § 9.

Amendments. The 2011 amendment by No. 989 substituted “July 15” for “July 30” in (b)(2).

The 2011 amendment by No. 993, in (b)(2), substituted “July 15” for “July 30,”

inserted “or if the open-enrollment public charter school has not yet met its enrollment cap” and substituted “a number of replacement or additional students not to exceed the enrollment cap of the open enrollment public charter school” for “a replacement student.”

6-23-404. Evaluation of open-enrollment public charter schools.

(a) The Department of Education shall cause to be conducted an annual evaluation of open-enrollment public charter schools.

(b) An annual evaluation shall include without limitation consideration of:

(1) Student scores under the statewide assessment program described in § 6-15-433;

(2) Student attendance;

(3) Student grades;

(4) Incidents involving student discipline;

(5) Socioeconomic data on students’ families;

(6) Parental satisfaction with the schools;

(7) Student satisfaction with the schools; and

(8) The open-enrollment public charter school’s compliance with § 6-23-107.

(c) The authorizer may require the charter holder to appear before the authorizer to discuss the results of the evaluation and to present further information to the authorizer as the authorizer deems necessary.

History. Acts 1999, No. 890, § 12; 2001, No. 1311, § 6; 2007, No. 736, § 25; 2011, No. 993, § 10; 2013, No. 509, § 13.

Amendments. The 2011 amendment added (b)(8).

The 2013 amendment substituted “authorizer” for “State Board of Education”, “state board” twice, and “department or the state board” in (c).

6-23-405. Monthly reports.

An open-enrollment public charter school in its initial school year of operation shall provide monthly reports on its enrollment status and compliance with its approved budget for the current school year to the Department of Education.

History. Acts 2011, No. 993, § 11.

6-23-406. Department of Education review.

The Department of Education shall:

(1) Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and

(2) Report to the State Board of Education and the Commissioner of Education on the open-enrollment public charter school’s:

(A) Overall financial condition; and

(B) Overall condition of student enrollment.

History. Acts 2011, No. 993, § 11; 2013, No. 509, § 14.

inserted “and the Commissioner of Education” in the introductory language of (2).

Amendments. The 2013 amendment

SUBCHAPTER 5 — OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS — FUNDING

SECTION.

6-23-501. Funding for open-enrollment public charter schools.

6-23-505. Annual audit.

SECTION.

6-23-506. Assets of school as property of state.

A.C.R.C. Notes. Acts 2013, No. 1228, § 3, provided: GRANT ELIGIBILITY CRITERIA. An open enrollment public charter school is eligible to apply for and receive a grant under this act if the open enrollment public charter school:

“(1) Has been in existence for five (5) or more years before applying for the grant;

“(2) Has a student population of which sixty percent (60%) or more are students who are national school lunch students;

“(3) Provides transportation for its students to and from school; and

“(4) Has a record of academic success defined by the rules implementing the Open Enrollment Public Charter School

Capital Grant Program.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-23-501. Funding for open-enrollment public charter schools.

(a)(1) An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under § 6-20-2305(a) and (b) as well as any other funding that a public charter school is entitled to receive under law or under rules promulgated by the State Board of Education.

(2)(A) For the first year of operation and for the first year the open-enrollment public charter school adds a new grade, the foundation funding and enhanced educational funding for an open-enrollment public charter school is determined as follows:

(i) The initial funding estimate shall be based on enrollment as of July 1 of the current school year;

(ii) In December, funding will be adjusted based upon the first quarter average daily membership; and

(iii) A final adjustment will be made after the current three-quarter average daily membership is established.

(B) For the second year and each school year thereafter, the previous year's average daily membership will be used to calculate foundation funding and any enhanced educational funding amounts.

(3) National school lunch state categorical funding under § 6-20-2305(b)(4) shall be provided to an open-enrollment public charter school as follows:

(A) For the first year of operation and in any year when a grade is added, free or reduced-price meal eligibility data as reported by October 1 of the current school year will be used to calculate the national school lunch state categorical funding under the state board rules governing special needs funding; and

(B) For the second year and each school year of operation thereafter, the previous year's October 1 national school lunch student count as specified in state board rules governing special needs funding will be used to calculate national school lunch state categorical funding for the open-enrollment public charter school.

(4) Professional development funding under § 6-20-2305(b)(5) shall be provided to an open-enrollment public charter school for the first year of operation and in any year in which a grade is added as follows:

(A)(i) In the first year of operation the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of July 1 of the current school year multiplied by the per-student professional development funding amount under § 6-20-2305(b)(5) for that school year.

(ii) For the second year and each school year thereafter, professional development funding will be based upon the previous year's average daily membership multiplied by the per-student professional development funding amount for that school year.

(5) The Department of Education shall distribute other categorical funding under § 6-20-2305(a) and (b) for which an open-enrollment public charter school is eligible as provided by state law and rules promulgated by the state board.

(6) An open-enrollment public charter school shall not be denied foundation funding, enhanced educational funding, or categorical funding in the first year or any year of operation provided that the open-enrollment public charter school submits to the department the number of students eligible for funding as specified in applicable rules.

(7) Foundation funding for an open-enrollment public charter school shall be paid in twelve (12) installments each fiscal year.

(b) An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.

(c) Open-enrollment public charter schools may receive gifts and grants from private sources in whatever manner is available to public school districts.

(d)(1) An open-enrollment public charter school shall have a right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws its students if the public school district decides to sell or lease the public school facility.

(2) The public school district may not require lease payments that exceed the fair market value of the property.

(3) The application of this subsection is subject to the rights of a repurchaser under § 6-13-103 regarding property taken by eminent domain.

(4) A public school district is exempt from the provisions of this subsection if the public school district, through an open bid process, receives and accepts an offer to lease or purchase the property from a purchaser other than the open-enrollment public charter school for an amount that exceeds the fair market value.

(5) The purposes of this subsection are to:

(A) Acknowledge that taxpayers intended a public school facility to be used as a public school; and

(B) Preserve the option to continue that use.

(6) Nothing in this subsection is intended to diminish the opportunity for an Arkansas Better Chance Program to bid on the purchase or lease of the public school facility on an equal basis as the open-enrollment public charter school.

History. Acts 1999, No. 890, § 7; 2001, No. 1311, § 7; 2003 (2nd Ex. Sess.), No. 59, § 3; 2005, No. 2005, § 11; 2007, No. 736, § 26; 2009, No. 1469, § 22; 2011, No. 981, § 14; 2011, No. 989, §§ 75-77; 2011, No. 993, §§ 12-14.

A.C.R.C. Notes. Pursuant to Acts 2011, No. 981, § 19, § 6-23-501(a)(4) is set out above as amended by Acts 2011, No. 993, § 14. Acts 2011, No. 981, § 19 read as follows: "The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Eighty-Eighth General Assembly. All such acts shall have the full force and effect and, so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts and as amending or repealing the appropriate parts of the Arkansas Code of 1987."

Pursuant to § 1-2-207, § 6-23-501(a)(2)(A)(i) is set out above as amended by Acts 2011, No. 993, § 12. Section 6-23-501(a)(2)(A)(i) was also amended by Acts 2011, No. 989, § 75, as follows: "(i) The initial funding estimate shall be based on enrollment as of July 15 of the school year in which the students are to attend classes;"

Pursuant to § 1-2-207, § 6-23-501(a)(4)(A) is set out above as amended by Acts 2011, No. 993, § 14. Section 6-23-501(a)(4)(A) was also amended by Acts

2011, No. 989, § 76, as follows: "(A)(i) In the first year of operation the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of July 15 of the school year in which the students are to attend, multiplied by the per-student professional development funding amount under § 6-20-2305(b)(5) for that school year."

Amendments. The 2009 amendment rewrote (a)(2); and made a stylistic change in (a)(1).

The 2011 amendment by No. 981 deleted "for the first year of operation" following "school" in the introductory paragraph of (a)(4); and redesignated former (a)(4)(ii) as (a)(4)(B).

The 2011 amendment by No. 989 substituted "July 15 of the school year" for "July 30 preceding the school year" in (a)(2)(A)(i) and (a)(4)(A)(i); and added "Foundation" preceding "funding" in (a)(7).

The 2011 amendment by No. 993 substituted "July 1 of the current school year" for "July 30 preceding the school year in which the students are to attend classes" in (a)(2)(A)(i); inserted "and in any year when a grade is added" in (a)(3)(A); inserted "and in any year in which a grade is added" in (a)(4); and substituted "July 1 of the current school year" for "July 30 preceding the school year in which the students are to attend" in (a)(4)(A)(i).

6-23-503. Use of funding.

A.C.R.C. Notes. Acts 2013, No. 1309, § 24, provided: "OPEN-ENROLLMENT VIRTUAL CHARTER SCHOOL PROVISIONS."

"(a) Regardless of any provision of law to the contrary, no school district shall receive state funding for the 2013-2014 school year for those students who are included in the district's average daily membership for the previous school year but who are attending any open-enrollment charter school that uses internet, long-distance, or virtual technology as the primary method of teaching.

"(b) As of school year 2012-13, the State Board of Education has approved a maximum enrollment of 500 for the open-enrollment public virtual charter school.

"(c) Beginning in school year 2013-14 and thereafter, for an open-enrollment public charter granted to a virtual school, the school shall be allowed to enroll an eligible student in any grade, kindergarten through grade twelve (12), up to a total school enrollment of three thousand (3,000) students.

"(d) Students that become enrolled in the two thousand five hundred (2,500) additional slots authorized by subsection (c) of this Section must be enrolled in an Arkansas public school for the first three quarters of the prior school year.

"(e) The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

6-23-505. Annual audit.

An open-enrollment public charter school shall prepare an annual certified audit of the financial condition and transactions of the open-enrollment public charter school as of June 30 of each year in accordance with generally accepted auditing procedures and containing any other data as determined by the State Board of Education for all public schools.

History. Acts 1999, No. 890, § 7; 2007, No. 736, § 30; 2013, No. 509, § 15.

Amendments. The 2013 amendment added "for all public schools" at the end.

6-23-506. Assets of school as property of state.

(a) Upon dissolution of the open-enrollment public charter school or upon nonrenewal or revocation of the charter, all net assets of the open-enrollment public charter school, including any interest in real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of the open-enrollment public charter school.

(b)(1) If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the Department of Education may require that the property be sold.

(2) The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase.

History. Acts 1999, No. 890, § 7; 2007, No. 736, § 31; 2013, No. 509, § 16.

Amendments. The 2013 amendment

substituted "Department of Education" for "State Board of Education" in (b)(1).

SUBCHAPTER 6 — LIMITED PUBLIC CHARTER SCHOOLS

SECTION.

6-23-601. Application for limited public charter school status —

Approval — Teacher transfers — Annual evaluation.

Effective Dates. Acts 2011, No. 993, § 18: Apr. 1, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public charter schools; and that this act is immediately necessary so that the affected public charter schools will receive the amount of

funding provided under this act for the current school year. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-23-601. Application for limited public charter school status — Approval — Teacher transfers — Annual evaluation.

(a)(1) Any public school may apply to the Department of Education for limited public charter school status for alternative comprehensive staffing and compensation programs designed to enhance student and teacher performance and improve employee salaries, opportunities, and incentives, to be known as a limited public charter school.

(2) A limited public charter shall be for the purpose of instituting alternative staffing practices in accordance with a schedule approved by the authorizer.

(3) A limited public charter shall be initially established for a period of no more than five (5) years and may be renewed on a one-year or multiyear basis, not to exceed five (5) years per charter renewal.

(b) The application shall:

(1)(A) Contain the provisions of this title and the specific rules and regulations promulgated by the state board from which the limited public charter school will be exempt.

(B) The provisions from which the public school district may be exempt for the limited public charter school only shall be limited to the following:

(i) The duty-free lunch period requirements set forth in § 6-17-111;

(ii) The daily planning period requirements set forth in § 6-17-114;

(iii) The committee on personnel policies requirements set forth in § 6-17-201 et seq.; and

(iv) Standards for accreditation set forth in the Arkansas Code, set forth by the Department of Education, or set forth by the State Board of Education.

(C) No limited public charter school may be allowed an exemption that would allow a full-time licensed employee to be paid less than the salary provided in the public school district's salary schedule for that employee;

(2) Describe a plan for school improvement that addresses how the limited public charter school will improve student learning and meet the state education goals;

(3) Describe how the licensed employees at the limited public charter school will be involved in developing and implementing the school improvement plan set forth in subdivision (b)(2) of this section and in identifying performance criteria;

(4) Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the limited public charter school in improving student learning and meeting or exceeding the state education goals; and

(5) Be reviewed as a regular agenda item and approved after sufficient public comment by the local school board and the authorizer.

(c)(1) Any application to obtain limited public charter school status approved by a local school board shall be forwarded by the local school board to the authorizer.

(2) If a local school board does not approve a public school's application, the local school board shall inform the applicants and faculty of the public school of the local school board's reasons for not approving the application.

(d)(1) A licensed teacher employed by a public school in the school year immediately preceding the effective date of a limited public charter for a limited public charter school within that public school district may not be transferred to or be employed by the limited public charter school over the licensed teacher's objections, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

(2) If the transfer of a teacher within a public school district is not possible because only one (1) public school exists for the teacher's licensure level, then the local school board shall call for a vote of the licensed teachers in the proposed limited public charter school site and proceed, at the local school board's option, with the limited public charter school application if a majority of the licensed teachers approve the proposal.

(3)(A) A licensed teacher choosing to join the staff of a limited public charter school shall be employed by the district by a written contract as set forth in § 6-13-620(5), with the contract being subject to the provisions of The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.

(B)(i) The licensed teacher shall also enter into a separate supplemental contract specifically for the teacher's employment in the

limited public charter school, with the supplemental contract being exempt from The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and from § 6-17-807.

(ii) Termination of the supplemental contract shall not be used as a basis to deny continued employment of the teacher within the public school district in another public school at a similar grade level.

(e)(1) Limited public charter schools shall be evaluated annually by the department based on criteria approved by the authorizer including without limitation:

(A) Student performance data in order to determine progress in student achievement that has been achieved by the limited public charter school; and

(B) The limited public charter school's compliance with § 6-23-107.

(2) The department shall annually report its evaluation to the state board and the Commissioner of Education.

(3) Based upon that evaluation, the authorizer may revoke a limited public charter.

(f) The state board shall promulgate rules and regulations necessary for the implementation of this subchapter.

History. Acts 2001, No. 1311, § 9; 2005, No. 2005, § 12; 2007, No. 736, § 32; 2011, No. 993, § 15; 2013, No. 509, § 17; 013, No. 1138, §§ 67-69.

Amendments. The 2011 amendment rewrote (e)(1).

The 2013 amendment by No. 509 substituted "Department of Education" for "State Board of Education" in (a)(1); substituted "authorizer" for "state board" in (a)(2), (b)(5), (c)(1), and (e); substituted

"State Board of Education" for "state board" in (b)(1)(B)(iv); substituted "§ 6-13-620(5)" for "§ 6-13-620(4)" in (d)(3)(A); and added "and the Commissioner of Education" at the end of (e)(2).

The 2013 amendment by No. 1138 substituted "licensed employee" for "certified employee" in (b)(1)(C) and (b)(3), substituted "licensed teacher" for "certified teacher" and "licensure level" for "certification level" throughout (d).

SUBCHAPTER 7 — PUBLIC CHARTER SCHOOL AUTHORIZER

SECTION.

6-23-701. Designated public charter authorizer.

6-23-702. Public charter authorizing procedures — Notification.

SECTION.

6-23-703. State Board of Education optional review.

6-23-701. Designated public charter authorizer.

(a) The Department of Education is the designated public charter authorizer with jurisdiction and authority over all public charters issued in this state to take the following action on a proposed or established public charter:

- (1) Approve;
- (2) Reject;
- (3) Renew;
- (4) Non-renew;
- (5) Place on probation;

- (6) Modify;
- (7) Revoke; or
- (8) Deny.

(b)(1) The department shall exercise authority over public charter schools under this chapter through a public charter authorizing panel established within the department.

(2)(A) The Commissioner of Education shall appoint a public charter authorizing panel that consists of professional staff employed at the department to serve at the pleasure of the commissioner.

(B) The commissioner may elect to serve as a member on the charter authorizing panel as the chair.

(3) The public charter authorizing panel is composed of an odd number of members and consists of no less than five (5) members and no more than eleven (11) members.

(c) The department may waive provisions of Title 6 or State Board of Education rules as allowed by law for public charters.

(d)(1) The department shall conduct all hearings on public charter school matters as required by law, rule, and process and make final determinations as allowed by law.

(2)(A) A hearing under this chapter conducted by the department shall be an open meeting under the Freedom of Information Act of 1967, § 25-19-106.

(B) For the purposes of § 25-19-106, the members of the public charter authorizing panel shall be considered a governing body only in regard to actions specifically authorized by this subchapter.

(3)(A) All decisions of the panel shall be made by majority vote of the quorum.

(B) A decision of the department is final except as provided under § 6-23-703.

(4) The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to a hearing concerning a public charter school.

(e) The department shall be the primary authorizer of public charters except as provided under § 6-23-703.

History. Acts 2013, No. 509, § 18.

6-23-702. Public charter authorizing procedures — Notification.

(a) The State Board of Education shall adopt rules as necessary to administer this subchapter, including without limitation the procedure for:

- (1) Hearings; and
- (2) Administration of the public charter authorizing panel.

(b)(1) The Department of Education shall notify in writing the State Board of Education, charter applicant, public charter school, and affected school districts, if any, of final decisions made by the department no less than fourteen (14) calendar days before the next regularly scheduled State Board of Education meeting after the final decision is made by the department.

(2)(A) A charter applicant, public charter school, and affected school district, if any, may submit in writing a request that the state board review the final decision of the department under § 6-23-703.

(B) The written request submitted under subdivision (b)(2)(A) of this section shall state the specific reasons supporting a review by the state board.

(3) The decision of whether to review a final decision of the department is discretionary by the state board and the provisions of this section and § 6-23-703 do not grant any right of appeal to a charter applicant, public charter school, or affected school district.

History. Acts 2013, No. 509, § 18.

6-23-703. State Board of Education optional review.

(a) On a motion approved by a majority vote, the State Board of Education may exercise a right of review of a charter determination made by the Department of Education at the next regularly scheduled state board meeting after receiving notice provided under § 6-23-702(b).

(b) If the state board votes to review a final decision made by the department, the state board shall:

(1) State the specific additional information the state board requires from the department, public charter school, public charter school applicant, or affected school district;

(2) Conduct a full hearing regarding a final decision by the department under § 6-23-701(a); and

(3) Hold the hearing at the earlier of:

(A) The next regularly scheduled state board meeting following the state board meeting during which the state board voted to authorize a review; or

(B) A special board meeting called by the state board.

(c)(1) At the conclusion of the hearing, the state board may issue a final decision by state board vote.

(2) The state board may decide by majority vote of the quorum to:

(A) Affirm the decision of the department;

(B) Take other lawful action on the public charter;

(C)(i) Request additional information from the department, public charter school, public charter school applicant, or affected school district, if needed.

(ii) If the state board requests additional information under subdivision (c)(2)(C)(i) of this section, the state board shall hold a subsequent hearing at the earlier of:

(a) The next regularly scheduled state board meeting; or

(b) A special board meeting called by the state board.

(3) A decision made by the state board is final with no right of appeal.

(d) The state board may promulgate rules as necessary to implement this section.

History. Acts 2013, No. 509, § 18.

SUBCHAPTER 8 — OPEN ENROLLMENT PUBLIC CHARTER SCHOOL CAPITAL GRANT PROGRAM

SECTION.

6-23-801. Definitions.

6-23-802. Purposes of grants.

SECTION.

6-23-803. Application for grant.

6-23-804. Administration — Regulations.

A.C.R.C. Notes. Acts 2013, No. 1064, § 3, provided: “For the school year 2013-2014, an open enrollment public charter school is eligible to apply for and receive a grant under this act only if the open enrollment public charter school:

“(1) Has been in existence for five (5) or more years before applying for the grant;

“(2) Has a student population of which sixty percent (60%) or more are students who are national school lunch students;

“(3) Provides transportation for its students to and from school; and

“(4) Has a record of academic success as defined by the Department of Education.”

6-23-801. Definitions.

As used in this subchapter:

(1) “Academic facility” means a building or space, including related areas such as the physical plant and grounds, that is part of an institution in which students receive instruction;

(2) “Maintenance, repair, and renovation” means an activity or improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds that maintains, conserves, or protects the state of condition or efficiency of the academic facility;

(3) “National school lunch students” has the same meaning as in § 6-20-2303; and

(4) “New construction” means an improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that improves the state of condition or efficiency of the academic facility.

History. Acts 2013, No. 1064, § 1.

6-23-802. Purposes of grants.

An open enrollment public charter school may apply for and the Division of Public School Academic Facilities and Transportation may grant moneys from the Open Enrollment Public Charter School Capital Grant Program Fund for one (1) or more of the following purposes:

(1) The maintenance, repair, renovation, and new construction of academic facilities;

(2) The cost of acquiring a site and constructing and equipping an academic facility on that site;

(3) The purchase of instructional materials, technology systems, and other academic equipment; and

(4) The repayment of debt incurred by an open enrollment public charter school for one (1) or more of the purposes identified in subdivisions (1)-(3) of this section.

History. Acts 2013, No. 1064, § 1.

6-23-803. Application for grant.

(a) The board of directors of an open enrollment public charter school may request a grant from the Open Enrollment Public Charter School Capital Grant Program under this subchapter by filing a formal application with the Division of Public School Academic Facilities and Transportation using the form and in the manner required by rules of the Commission for Arkansas Public School Academic Facilities and Transportation.

(b) The application shall contain the following information without limitation:

(1) The open enrollment public charter school's:

(A) Name;

(B) Local education agency number; and

(C) Location;

(2) A certified copy of the written resolution of the board that includes without limitation:

(A) The board's authorization for filing the application; and

(B) The date and place of the meeting of the board at which the action was taken;

(3) The proposed use for the proceeds of the grant;

(4) The amount of the grant requested and supporting evidence upon which the amount is based; and

(5) Additional information required by the division.

(c) The open enrollment public charter school shall:

(1) Execute the application in duplicate;

(2) File the original with the division; and

(3) Retain one (1) copy in the files of the open enrollment public charter school.

(d) Within a reasonable time after its receipt of an application for a grant from the Open Enrollment Public Charter School Capital Grant Program under this subchapter, the division shall review the accuracy and merits of the application and either:

(1) Approve the application for the full amount of the grant request;

(2) Approve the application for a grant of a lesser amount than the amount requested; or

(3) Reject the application.

History. Acts 2013, No. 1064, § 1.

6-23-804. Administration — Regulations.

(a)(1) The Division of Public School Academic Facilities and Transportation shall administer the Open Enrollment Public Charter School Capital Grant Program in a manner that awards a grant and monitors the use of a grant according to the stated purpose of the grant.

(2) This section is not intended to subject a grant applicant to rules similar to those applicable to school districts under the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(b) The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules to implement this subchapter.

History. Acts 2013, No. 1064, § 1.

SUBCHAPTER 9 — THE OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL FACILITIES LOAN FUND**SECTION.**

- 6-23-901. The Open-Enrollment Public Charter School Facilities Loan Fund — Established.
6-23-902. Funding source — Procedures.
6-23-903. Purpose of loan.

SECTION.

- 6-23-904. Loan application.
6-23-905. Loan decision.
6-23-906. Rules.
6-23-907. Failure to remit payment.

6-23-901. The Open-Enrollment Public Charter School Facilities Loan Fund — Established.

Beginning with the 2013-2014 school year, the Open-Enrollment Public Charter School Facilities Loan Fund is established under § 19-5-1251 to provide funding for safe and secure facilities in which to conduct educational services and administrative activities for open-enrollment public charter schools.

History. Acts 2013, No. 1255, § 1.

6-23-902. Funding source — Procedures.

(a) The Open-Enrollment Public Charter School Facilities Loan Fund shall be administered and operated by the Division of Public School Academic Facilities and Transportation for the sole purpose of facility assistance for eligible open-enrollment public charter schools.

(b) The fund may be funded by:

(1) General revenues received by the division for the purpose of starting, augmenting, or replenishing the fund;

(2) Grants received by the division for the express purpose of providing open-enrollment public charter school facilities assistance, including grants from the United States Department of Education; and

(3) Donations or bequests from organizations or individuals received by the division that are designated for the fund.

(c) The division shall:

(1) Use rules and forms adopted by the Commission for Arkansas Public School Academic Facilities and Transportation for the administration and operation of the loan program, including without limitation a loan application form that addresses:

(A) A specific description of the project or facility for which funding is needed;

(B) A description of the project or facility for which funding is needed, including the physical location of the project or facility;

(C) The anticipated cost of acquisition, construction, lease, operation, addition, improvement, or repair of the open-enrollment public charter school facility;

(D) An explanation for the open-enrollment public charter school's inability to provide sufficient funding for the project or facility through other resources;

(E) A description of the funds that the open-enrollment public charter school intends to use to collateralize and pledge to secure the loan;

(F) A repayment period of not to exceed ten (10) years from the date the loan is approved;

(G) A resolution from the open-enrollment public charter school's governing board stating the necessity of the requested assistance; and

(H) The repayment terms and conditions of the loan with the repayment interest rate not to exceed one percent (1%) of the interest rate earned by money in the fund; and

(2) Develop a prioritization system to fund projects and facilities if sufficient funding is not available to fully fund all eligible requests.

(d) The division shall dedicate sufficient personnel and resources to administer the loan program in a timely and responsive manner.

(e) All earnings received on the investment of assets held in the Open-Enrollment Public Charter School Facilities Loan Fund shall be used in the following order of priority for the following purposes:

(1) To pay the operating expenses of the Open-Enrollment Public Charter School Facilities Loan Fund administered by the division; and

(2) To fund loans under § 6-23-703 or as permitted by law.

History. Acts 2013, No. 1255, § 1.

6-23-903. Purpose of loan.

An open-enrollment public charter school may borrow and the Division of Public School Academic Facilities and Transportation may lend money from the Open-Enrollment Public Charter School Facilities Loan Fund for:

(1) The construction, lease, or purchase of an academic facility;

(2) The repair, improvement, or addition to an academic facility; or

(3) Credit enhancement for financing academic facility projects under subdivision (1) or (2) of this section.

History. Acts 2013, No. 1255, § 1.

6-23-904. Loan application.

(a) The board of directors of an open-enrollment public charter school wanting to borrow money from the Open-Enrollment Public Charter School Facilities Loan Fund, acting through its chair or president and secretary, after approval of such action by full majority approval of the board of directors, shall file a loan application with the Division of Public School Academic Facilities and Transportation.

(b) The loan application shall be on a form promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation and include without limitation:

(1) The name, location, and local education agency number of the open-enrollment public charter school;

(2) The date and location of the board of directors meeting at which action was taken to make a formal application for a loan;

(3) The purpose for which the loan will be used;

(4) The estimated amount of the proposed loan, including any supporting documentation on cost estimates;

(5) Complete financial information, including all current debt obligations;

(6) The method proposed to repay the loan; and

(7) Any additional information requested by the division.

(c) An application shall be executed in duplicate with the original to be filed with the division and the copy to be retained in the files of the open-enrollment public charter school.

History. Acts 2013, No. 1255, § 1.

6-23-905. Loan decision.

(a) The Division of Public School Academic Facilities and Transportation shall review and assess the accuracy of the information provided in each loan application within a reasonable time after receiving a loan application.

(b)(1) After reviewing and considering the merits of the application, the division may:

(A) Approve the loan requested for the full amount;

(B) Approve the loan requested for an amount less than requested;

or

(C) Deny the loan.

(2) The division shall notify the open-enrollment public charter school in writing of the decision.

(c) An open-enrollment public charter school may apply for and accept a loan from the Open-Enrollment Public Charter School Facili-

ties Loan Fund without prior approval from the Commissioner of Education under § 6-23-401(a)(5).

History. Acts 2013, No. 1255, § 1.

6-23-906. Rules.

(a) The Commission for Arkansas Public School Academic Facilities and Transportation shall promulgate rules necessary to administer the Open-Enrollment Public Charter School Facilities Loan Fund, which shall include without limitation a provision for the prioritization of loan applications.

(b) This section is not intended to subject a loan applicant to rules similar to those applicable to school districts under the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., and the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

History. Acts 2013, No. 1255, § 1.

6-23-907. Failure to remit payment.

(a) If an open-enrollment public charter school fails to remit payment for an outstanding loan under the Open-Enrollment Public Charter School Facilities Loan Fund, upon certification of the amount of delinquent funds by the Division of Public School Academic Facilities and Transportation, the amount of delinquent funds including penalties and interest may be deducted from the operating funds designated to the open-enrollment public charter school through the Department of Education and remitted directly by the department to the Open-Enrollment Public Charter School Facilities Loan Fund if requested by the division.

(b) The operating funds from which delinquent funds may be deducted for an open-enrollment public charter school are limited to:

(1) State funding distributed under § 6-20-2305, including without limitation state foundation funding and state categorical funding;

(2) Federal funding to the extent allowed under federal law; and

(3) The net assets of an open-enrollment public charter school deemed property of the state upon revocation or nonrenewal of the charter.

(c) The state shall hold a preferred security interest in the amount of the outstanding loan.

History. Acts 2013, No. 1255, § 1.

CHAPTER 24

ETHICAL GUIDELINES AND PROHIBITIONS

SECTION.

6-24-102. Definitions.

SECTION.

6-24-105. School boards.

SECTION.

6-24-106. Administrators.

6-24-107. Employees.

SECTION.

6-24-120. [Repealed.]

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-24-102. Definitions.

Unless otherwise specifically stated in this subchapter, the term:

(1) "Administrator" means any superintendent or assistant superintendent or his or her equivalent, school district treasurer, business manager, or other individual directly responsible for entity-wide purchasing;

(2) "Board" means a local school board or other governing body of a public educational entity;

(3) "Board member" means any board member, director, or other member of a governing body of a public educational entity;

(4) "Board of Education" means the State Board of Education;

(5) "Commissioner" means the Commissioner of Education or his or her designee;

(6) "Commodities" means all supplies, goods, material, equipment, computers, software, machinery, facilities, personal property, and services, other than personal and professional services, purchased for or on behalf of a public educational entity;

(7) "Contract" means any transaction or agreement for the purchase, lease, transfer, or use of real property or personal property and personal or professional services of an independent contractor, including, but not limited to, motor vehicles, equipment, commodities, materials, services, computers or other electronics, construction, capital improvements, deposits, and investments;

(8) "Directly" or "directly interested" means receiving compensation or other benefits personally or to an individual's household from the person, business, or entity contracting with the public educational entity;

(9) "Emergency purchase" means purchases mandated by unforeseen and unavoidable circumstances in which human life, health, or public property is in immediate jeopardy and the expenditure is necessary to preserve life, health, or public property;

(10) "Employee" means a full-time employee or part-time employee of a public educational entity;

(11) "Employment contract" means an agreement or contract between an employer and an employee in which the terms and conditions of the employment are provided;

(12) "Family" or "family members" means:

(A) An individual's spouse;

(B) Children of the individual or children of the individual's spouse;

(C) The spouse of a child of the individual or the spouse of a child of the individual's spouse;

(D) Parents of the individual or parents of the individual's spouse;

(E) Brothers and sisters of the individual or brothers and sisters of the individual's spouse;

(F) Anyone living or residing in the same residence or household with the individual or in the same residence or household with the individual's spouse; or

(G) Anyone acting or serving as an agent of the individual or as an agent of the individual's spouse;

(13)(A) "Financial interest" in a business or other entity means:

(i) Ownership of more than a five percent (5%) interest;

(ii) Holding a position as an officer, director, trustee, partner, or other top level management; or

(iii) Being an employee, agent, independent contractor, or having any other arrangement in which the individual's compensation is based in whole or in part on transactions with the public educational entity.

(B) "Financial interest" does not include:

(i) The ownership of stock or other equity holdings in any publicly held company; or

(ii) Clerical or other similar hourly compensated employees;

(14) "Gratuity" means a payment, loan, subscription, advance, deposit of money, travel, services, or anything having a present market value of one hundred dollars (\$100) or more unless consideration of substantially equal or greater value is received;

(15) "Indirectly" or "indirectly interested" means that a family member, business, or other entity in which the individual or a family member has a financial interest will receive compensation or benefits;

(16) "Initially employed" means:

(A) Employed in either an interim or permanent position for the first time or following a severance in employment with the school district; or

(B) A change in the terms and conditions of an existing contract, excluding:

- (i) Any renewal of a teacher contract under § 6-17-1506;
- (ii) Renewal of the contract of an employee in a nonlicensed personnel position that is required by law; or
- (iii) Movement of an employee on the salary schedule that does not require board action; and

(17)(A) “Public educational entity” means Arkansas public school districts, charter schools, education service cooperatives, or any publicly supported entity having supervision over public educational entities.

(B) “Public educational entity” does not include institutions of higher education.

History. Acts 2001, No. 1599, § 2; 2005, No. 1381, § 1; 2007, No. 617, § 30; 2013, No. 608, § 1; 2013, No. 1138, § 70.

Amendments. The 2013 amendment by No. 608 substituted “an individual’s household from the person, business, or entity contracting with the public educational entity” for “a business or other

entity in which the individual has a financial interest or receives other benefits” in (8).

The 2013 amendment by No. 1138 substituted “Renewal of the contract of an employee in a nonlicensed personnel position” for “Renewal of a noncertified employee’s contract” in (16)(B)(ii).

6-24-105. School boards.

(a) **GENERAL PROHIBITION.** Except as otherwise provided, it is a breach of the ethical standards of this chapter for a board member to contract with the public educational entity the member serves if the board member has knowledge that he or she is directly or indirectly interested in the contract.

(b) **EMPLOYMENT OF FAMILY MEMBERS.**

(1)(A)(i) A board member’s family member may not be initially employed by the public educational entity the member serves during the member’s tenure of service on the local board for compensation in excess of five thousand dollars (\$5,000) unless the Commissioner of Education issues a letter of exemption and approves the employment contract based on unusual and limited circumstances.

(ii) The determination of unusual and limited circumstances shall be at the sole discretion of the commissioner and may be further defined by rule of the State Board of Education.

(B) A family member of a school board member who was employed by the public educational entity during the school year immediately preceding the election of the board member may continue employment with the public educational entity under the same terms and conditions of the previously executed contract and any renewal of the contract under § 6-17-1506.

(C) Subject to the local board’s written policy, a qualified family member of a board member may be employed as a substitute teacher, substitute cafeteria worker, or substitute bus driver for a period of time not to exceed a total of thirty (30) days per fiscal year for the public educational entity served by the board member.

(2)(A)(i) No employment contract that is prohibited under subsection (b) of this section is valid or enforceable by any party to the employment contract until approved in writing by the commissioner.

(ii) The commissioner's approval of an employment contract may include restrictions and limitations that are by this subsection incorporated as terms or conditions of the contract.

(B) Excluding any renewal of a contract under § 6-17-1506, any change in the terms or conditions of an employment contract, a promotion, or a change in employment status for a family member of a school board member employed by a public educational entity that will result in an increase in compensation of more than two thousand five hundred dollars (\$2,500) must be approved in writing by the commissioner before any change in the terms or conditions of the employment contract or promotion or changes in employment status are effective, valid, or enforceable.

(c) EXCEPTIONS.

(1) BOARD APPROVAL.

(A)(i) In unusual and limited circumstances, a public educational entity's board may approve a contract, but not an employment contract, between the public educational entity and the board member or the member's family if the board determines that the contract is in the best interest of the public educational entity.

(ii) In unusual and limited circumstances, a public educational entity's board may approve an employment contract as provided in this section.

(B) The approval by the public educational entity's board shall be documented by written resolution after fully disclosing the reasons justifying the contract or employment contract in an open meeting. The resolution shall state the unusual and limited circumstances necessitating the contract or employment contract and shall document the restrictions and limitations of the contract or employment contract.

(C) If any proposed contract or employment contract is with a family member of a board member or a board member directly or indirectly interested in the proposed contract or employment contract, then the board member shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

(2) INDEPENDENT APPROVAL.

(A)(i) If it appears the total transactions or contracts with the board member or a family member for a fiscal year total, or will total, five thousand dollars (\$5,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the commissioner for independent review and approval.

(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the state board to assure that adequate notice has been received by

the Department of Education and to provide a record for the school district board of directors sending the request for approval.

(B)(i) Upon review of the submitted data for any contract, including an employment contract as provided in subsection (b) of this section, the commissioner, within twenty (20) days of receipt of the resolution and other relevant data, shall approve or disapprove in writing the board's request.

(ii) The commissioner may request additional information or testimony before ruling on a request. If additional data are needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(iii) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(C) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval. The commissioner may grant the approval for a particular transaction or contract, a series of related transactions or contracts, or employment contracts. However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years, excluding employment contracts.

(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(d) **RECORDS.** The department and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to transactions or contracts with board members or members of their families.

(e) **PROVIDING FALSE OR INCOMPLETE INFORMATION.** Any board member or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

History. Acts 2001, No. 1599, § 5; 2005, No. 1381, § 2; 2011, No. 878, § 1; 2013, No. 608, § 2.

A.C.R.C. Notes. Acts 2005, No. 1381, § 3, provided: "The provisions of this act shall be applicable to any employment contract entered into with a public educational entity on February 21, 2005, and thereafter."

Amendments. The 2011 amendment inserted "written" preceding "resolution"

in (c)(2)(A)(i) and (c)(2)(A)(ii); inserted "district board of directors" following "school" in (c)(2)(A)(i); substituted "twenty (20) days" for "ten (10) days" in (c)(2)(B)(i) and (c)(2)(B)(ii); substituted "twenty-day" for "ten-day" in (c)(2)(B)(iii); and substituted "two (2) complete and consecutive fiscal years" for "two (2) years" in (c)(2)(C).

The 2013 amendment inserted "under their respective record retention policies" in (d).

6-24-106. Administrators.**(a) GENERAL PROHIBITION.**

(1) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with the public educational entity employing him or her if the administrator has knowledge that he or she is directly or indirectly interested in the contract.

(2) Except as otherwise provided, it is a breach of the ethical standards of this chapter for an administrator to contract with any public educational entity if the administrator has knowledge that he or she is directly interested in the contract.

(b) **FAMILY MEMBERS AS EMPLOYEES.** This chapter does not prohibit an administrator's family members from being employed by the public educational entity the administrator serves or any other public educational entity. However, beginning July 1, 2002, a member of an administrator's immediate family or former spouse may not be initially employed as a disbursing officer of the public educational entity where the administrator is employed unless the public educational entity receives written approval from the Commissioner of Education. Before issuing a written approval or denial, the commissioner shall request the Division of Legislative Audit to review the internal controls, including the segregation of duties, present at the public educational entity. The Division of Legislative Audit shall report its findings in writing to the commissioner.

(c) EXCEPTIONS.

(1) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator may contract with a public educational entity other than the public educational entity employing him or her.

(2) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator's family members may contract with a public educational entity employing the administrator.

(3)(A) An administrator seeking to contract with other public educational entities, or an administrator's family member seeking to contract with the public educational entity employing the administrator, shall first present the request, with all relevant facts and circumstances justifying approval, to the board currently employing the administrator at an open meeting.

(B)(i) After reviewing the request in an open meeting, the board may, by written resolution, approve the contract subject to approval by the commissioner.

(ii) A copy of the approval resolution and all relevant data shall be forwarded by the board president to the commissioner.

(iii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been

received by the Department of Education and to provide a record for the school district board of directors sending the request for approval. (4)(A) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board's request.

(B) The commissioner may request additional information or testimony before ruling on a request. If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(C) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(5) If approved, the approval letter shall state all relevant facts and circumstances considered in the approval and shall state any restrictions or limitations of the approval. The commissioner may grant an approval for a particular transaction or a series of related transactions. No approval shall be granted for a period greater than two (2) complete and consecutive fiscal years.

(6) The Department of Education and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to an exemption from the provisions of this chapter.

(7) A contract subject to this subsection is not valid until the commissioner:

(A) Approves the contract; or

(B) Fails to respond to the public educational entity within the time periods specified in this section.

(d) PROVIDING FALSE OR INCOMPLETE INFORMATION. Any administrator knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) "CONTRACT" DEFINED. For the purposes of this section, "contract" does not apply to employment contracts issued to an administrator of a public educational entity for administrative or other duties such as, but not limited to, teaching, bus driving, or sponsorship of clubs or activities.

(f) COMPENSATION FOR OFFICIATING ATHLETIC EVENTS. Nothing in this section prohibits administrators from receiving compensation for officiating school-sponsored athletic activities with any public educational entity.

(g) COMPENSATION FOR CONDUCTING SEMINARS. Nothing in this section prohibits administrators from receiving compensation for conducting seminars for, or making presentations to, public educational entities other than the public educational entity employing them.

History. Acts 2001, No. 1599, § 6; 2009, No. 376, § 47; 2011, No. 878, § 2; 2013, No. 608, § 3.

Amendments. The 2009 amendment made minor stylistic changes in (c)(7).

The 2011 amendment inserted (c)(3)(B)(iii); substituted “twenty (20) days” for “ten (10)” days in (c)(4)(A) and

(c)(4)(B); substituted “twenty-day” for “ten-day” in (c)(4)(C); and substituted “two (2) complete and consecutive fiscal years” for “two (2) years” in (c)(5).

The 2013 amendment inserted “under their respective record retention policies” following “maintain” in (c)(6).

6-24-107. Employees.

(a) **GENERAL PROVISION.** Except as otherwise provided, it is a breach of the ethical standards of this chapter for an employee to contract with the public educational entity employing him or her if the employee has knowledge that he or she is directly interested in the contract.

(b) **EXCEPTIONS.**

(1) **APPROVAL BY BOARD.**

(A) In unusual and limited circumstances, a public educational entity’s board may approve a contract between the public educational entity and an employee if the board determines that the contract is in the best interest of the public educational entity.

(B) The approval by the public educational entity’s board shall be documented by written resolution after fully disclosing the reasons justifying the contract in an open meeting. The resolution shall state the unusual circumstances necessitating the contract and shall document the restrictions and limitations of the contract.

(C) Any board member directly or indirectly interested in the proposed contract shall leave the meeting until the voting on the issue is concluded, and the absent member shall not be counted as having voted.

(2) **INDEPENDENT APPROVAL.**

(A)(i) If it appears that the total transactions with an employee for a fiscal year total, or will total, five thousand dollars (\$5,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution along with all relevant data to the Commissioner of Education for independent review and approval.

(ii) The written resolution and other relevant data shall be sent by certified mail, return receipt requested, or other method approved by the State Board of Education to assure that adequate notice has been received by the Department of Education and to provide a record for the school district board of directors sending the request for approval.

(B)(i) Upon review of the submitted data, the commissioner shall, within twenty (20) days of receipt of the resolution and other relevant data, approve or disapprove in writing the board’s request.

(ii) The commissioner may request additional information or testimony before ruling on a request. If additional data is needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(iii) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(C) If approved, the commissioner shall issue an approval letter stating all relevant facts and circumstances considered and any restrictions or limitations pertaining to the approval. The commissioner may grant the approval for a particular transaction or a series of related transactions. However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years.

(D) No contract subject to the commissioner's review and approval shall be valid or enforceable until an approval letter has been issued by the commissioner or the commissioner fails to respond to the public educational entity within the time periods specified in this section.

(c) **DOCUMENTATION.** The department and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to transactions with employees.

(d) **PROVIDING FALSE OR INCOMPLETE INFORMATION.** Any employee or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of this chapter.

(e) **"CONTRACT" DEFINED.** For the purposes of this section, the term "contract" does not apply to employment contracts issued to public educational entity employees or other transactions for the performance of teaching or other related duties such as, but not limited to, bus driving, sponsorship of clubs or activities, or working at school sponsored events.

(f) **TECHNOLOGY EMPLOYEES.** All transactions involving the purchase, lease, acquisition, or other use of computers, software, copiers, or other electronic devices from family members of an employee responsible for establishing specifications or approving purchases of such equipment shall be approved according to the requirements of this section regarding the purchase from an employee with a direct interest in the transaction.

History. Acts 2001, No. 1599, § 7; 2011, No. 878, § 3; 2013, No. 608, § 4.

Amendments. The 2011 amendment inserted "written" preceding "resolution" in (b)(2)(A)(i) and (b)(2)(A)(ii); inserted "district board of directors" following "school" in (b)(2)(A)(ii); substituted "twenty (20) days" for "ten (10)" days in

(b)(2)(B)(i) and (b)(2)(B)(ii); substituted "twenty-day" for "ten-day" in (b)(2)(B)(iii); and substituted "two (2) complete and consecutive fiscal years" for "two (2) years" in (b)(2)(C).

The 2013 amendment inserted "under their respective record retention policies" in (c).

6-24-120. [Repealed.]

Publisher's Notes. This section, concerning penalties, was repealed by Acts 2003, No. 1738, § 6; 2007, No. 617, § 31.
2009, No. 1469, § 24. The section was

CHAPTER 26**ARKANSAS TEACHER HOUSING DEVELOPMENT ACT****SUBCHAPTER.**

1. GENERAL PROVISIONS.
3. TEACHER HOUSING DEVELOPMENT REQUIREMENTS.

SUBCHAPTER 1 — GENERAL PROVISIONS**SECTION.**

6-26-102. Definitions.

6-26-102. Definitions.

As used in this chapter:

- (1) "Board" means the Board of Trustees of the Arkansas Teacher Housing Development Foundation;
- (2) "Department" means the Department of Education;
- (3) "Director" means the Director of the Arkansas Teacher Housing Development Foundation;
- (4)(A) "Eligible home" means the primary residence of a high-performing teacher that is located within thirty (30) miles of a high-priority school district.
(B) "Eligible home" shall not include any dwelling with a purchase price of more than one hundred thousand dollars (\$100,000);
- (5) "Foundation" means the Arkansas Teacher Housing Development Foundation;
- (6) "High-performing school district" means a school district in the State of Arkansas that has fifty percent (50%) or more of its students performing above proficient on all benchmark examinations;
- (7) "High-performing teacher" means a licensed teacher who meets one (1) of the following criteria:
 - (A) Is currently employed at a high-performing school district as a classroom teacher and has three (3) years or more of experience teaching in the subject area that the high-priority school district is seeking;
 - (B)(i) Is not currently employed at a high-performing school district but in the past has taught at a high-performing school district for a minimum of three (3) years, obtains three (3) letters of recommendations from the high-performing school district at which the teacher has taught in the past that verifies the teacher's effectiveness as a classroom teacher, and explains in a sworn statement as to the reasons why he or she is currently not employed as a classroom teacher in a high-performing school district.

(ii) The three (3) letters of recommendation shall be provided by any of the following:

(a) A principal who supervised and evaluated the teacher when he or she taught at a school in the high-performing school district;

(b) An assistant principal who supervised and evaluated the teacher when he or she taught at a school in the high-performing school district;

(c) The superintendent of the high-performing school district; or

(d) Any other school official at the high-performing school district with knowledge of the teacher's performance during employment at the high-performing school district, including anyone with access to the teacher's personnel file or evaluations; or

(C)(i) Is currently employed at a high-priority school district as a classroom teacher and:

(ii)(a) Has three (3) years or more experience teaching in the subject area at the high-priority school district, has demonstrated the ability to successfully teach children in the high-priority school district, and obtains three (3) letters of recommendations from the high-priority school district at which the teacher is currently teaching that verifies the teacher's effectiveness as a classroom teacher.

(b) The three (3) letters of recommendation shall be provided by any of the following:

(1) The classroom teacher's current immediate supervisor;

(2) The current principal at the classroom teacher's school;

(3) An assistant principal who supervises and evaluates the classroom teacher;

(4) The superintendent of the school district where the classroom teacher teaches; or

(5) Any other school official at the high-priority school district where the classroom teacher currently teaches with knowledge of the classroom teacher's performance, including anyone with access to the classroom teacher's personnel file, evaluations, or student test scores;

(8) "High-priority school district" means a school district that meets the following criteria:

(A) It has had difficulty recruiting and retaining high-performing teachers for any kindergarten through grade twelve (K-12);

(B) It has a critical shortage of teachers qualified to teach for any kindergarten through grade twelve (K-12); and

(C) It has fifty percent (50%) or more students in the district performing below proficient on any or all benchmark examinations; and

(9) "State board" means the State Board of Education.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1; 2013, No. 1138, § 71.

substituted "licensed teacher" for "certified teacher" in (7).

Amendments. The 2013 amendment

SUBCHAPTER 3 — TEACHER HOUSING DEVELOPMENT REQUIREMENTS

SECTION.

6-26-303. Pilot rental housing program.

6-26-304. Development of the pilot rental housing program.

6-26-303. Pilot rental housing program.

(a) A pilot rental housing program shall be developed, implemented, and administered by the Board of Trustees of the Arkansas Teacher Housing Development Foundation in four (4) high-priority school districts in the state, one (1) in each congressional district of the state.

(b)(1) The rental housing units shall be provided to high-performing teachers who choose to teach in high-priority school districts.

(2) Only upon the approval of the board and only if the housing is not able to be used by high-performing teachers in a high-priority school district, the developer may lease to the following persons in order of preference:

(A) Other licensed employees of the high-priority school district;

(B) Other nonlicensed employees of the high-priority school district; or

(C) Any other person with a gross income of thirty-five thousand dollars (\$35,000) or less.

(3)(A) The Director of the Arkansas Teacher Housing Development Foundation shall provide a report to the interim House Committee on Education and the interim Senate Committee on Education as to whether the pilot rental housing program as provided in this section has been and is being provided to high-performing teachers or whether the pilot rental housing program has been modified due to the available loan programs or funding during any calendar year.

(B)(i) The report shall include the following:

(a) Data on the terms of each pilot rental housing program developed under this subchapter; and

(b) Any other data that is necessary for the interim House Committee on Education and the interim Senate Committee on Education to assess the effectiveness of the pilot rental housing program.

(ii) The report shall clearly indicate whether the pilot rental housing that has been developed meets the requirements of this subchapter and shall provide details on any modification of the pilot rental housing due to the available loan programs or funding.

(c) The reduced rate shall be at least fifty percent (50%) less than the fair rental value of the rental housing unit.

(d) To the extent allowed by the available loan programs or funding, the rental housing units offered shall include two (2) of the following sizes, to be determined based on the expected demand by high-performing teachers who will likely be attracted to the high-priority school district:

(1) A two-bedroom unit with one (1) bathroom and a minimum of eight hundred square feet (800 sq. ft.);

(2) A three-bedroom unit with two (2) bathrooms and a minimum of one thousand two hundred square feet (1200 sq. ft.); or

(3) A four-bedroom unit with two and one-half (2½) bathrooms and a minimum of one thousand five hundred square feet (1500 sq. ft.).

(e) To the extent allowed by the available loan programs or funding, the rental housing offered shall:

(1) Include all of the following new or late model, fully-functioning appliances:

(A) Refrigerator with ice maker;

(B) Stove and oven;

(C) Microwave oven;

(D) Dishwasher;

(E) Full-sized washer and dryer; and

(F) Central heat and air conditioning;

(2) Be constructed to meet or exceed the local building and fire codes;

(3) Be constructed to be energy efficient; and

(4)(A) If the pilot rental housing program is only serving one (1) school district, then be located no farther than three (3) miles beyond the high-priority school district boundaries at which the high-performing teachers are being hired.

(B) If the pilot rental housing program is serving two (2) or more school districts, then be located no farther than twenty (20) miles from any of the school districts using the housing.

(f)(1) Temporary rental housing may be provided to high-performing teachers during the time that new rental housing units are being constructed or existing rental housing units are being remodeled.

(2) Temporary rental housing does not have to meet the requirements of this section.

(3) If the high-performing teacher is required to remain in temporary rental housing for more than one (1) year, the high-performing teacher can choose any of the following to compensate him or her for the lesser rental housing units provided:

(A) A cash supplement of not less than twelve hundred dollars (\$1,200) per year that the teacher is required to live in the temporary rental housing and not more than the difference between the fair rental value of the rental housing unit that is required under this section and the temporary rental housing unit that is provided; or

(B) An additional interest-free, forgivable loan for the purchase of a home under § 6-26-302 for not more than two thousand five hundred dollars (\$2,500) to be forgiven after the fulfillment of one (1) year of service from the date that the loan is disbursed.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1; 2013, No. 1138, § 72.

Amendments. The 2013 amendment substituted “licensed employees” for “cer-

tified staff” in (b)(2)(A); and substituted “nonlicensed employees” for “noncertified staff” in (b)(2)(B).

6-26-304. Development of the pilot rental housing program.

(a) The Arkansas Teacher Housing Development Foundation or its designee shall receive proposals from developers for the construction of the rental housing units.

(b)(1) The Director of the Arkansas Teacher Housing Development Foundation shall recommend to the Board of Trustees of the Arkansas Teacher Housing Development Foundation which developer shall construct the rental housing units in each congressional district.

(2) The board shall either approve or reject the director’s recommendations for the developer of the rental housing units.

(3) If the board rejects any of the director’s recommendations, then the director shall recommend another developer that submitted a proposal.

(4) This process shall continue until a developer is approved by the board for each of the four (4) congressional districts.

(c) A preference shall be given to proposals submitted by developers located in the congressional district of the high-priority school district, but this preference shall not be the single determining factor.

(d) The foundation or its designee shall provide low-interest loans to the selected developers in the amount necessary to construct rental housing units to meet the housing needs for the expected number of high-performing teachers attracted to the area who will choose rental housing units.

(e)(1) Upon completion of the construction of the rental housing units, the developer shall operate the rental housing units until the loan is repaid.

(2) The developer and the foundation shall agree on the amount necessary to compensate the developer for the fair rental value of the rental housing units, considering the amount of rent the teacher is paying.

History. Acts 2003 (2nd Ex. Sess.), No. 39, § 1; 2009, No. 376, § 48.

in (d), substituted “high-performing” for “high-priority” and made a minor stylistic change.

Amendments. The 2009 amendment,

CHAPTER 27

EDUCATIONAL ACCESS FOR MILITARY CHILDREN

SECTION.

6-27-101 — 6-27-113. [Repealed.]

6-27-101 — 6-27-113. [Repealed.]

Publisher’s Notes. This chapter was repealed by Acts 2013, No. 146, § 2. The chapter was derived from the following sources:

- 6-27-101. Acts 2009, No. 314, § 1.
- 6-27-102. Acts 2009, No. 314, § 1.

- 6-27-103. Acts 2009, No. 314, § 1.
- 6-27-104. Acts 2009, No. 314, § 1.
- 6-27-105. Acts 2009, No. 314, § 1.
- 6-27-106. Acts 2009, No. 314, § 1.
- 6-27-107. Acts 2009, No. 314, § 1.
- 6-27-108. Acts 2009, No. 314, § 1.

- 6-27-109. Acts 2009, No. 314, § 1. 6-27-113. Acts 2009, No. 314, § 1; 2011,
 6-27-110. Acts 2009, No. 314, § 1. No. 1223, § 5.
 6-27-111. Acts 2009, No. 314, § 1.
 6-27-112. Acts 2009, No. 314, § 1; 2011,
 No. 981, § 15.

SUBTITLE 3. SPECIAL EDUCATIONAL PROGRAMS

CHAPTER 41

CHILDREN WITH DISABILITIES

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. CHILDREN WITH DISABILITIES ACT.
4. IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS.
5. TASK FORCE ON MEDICALLY FRAGILE, CHRONICALLY ILL, OR TECHNOLOGY-DEPENDENT STUDENTS.
6. DYSLEXIA AND RELATED DISORDERS.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

6-41-104. Services for children determined in another state to

be eligible for services due to a behavioral disability.

6-41-104. Services for children determined in another state to be eligible for services due to a behavioral disability.

- (a) This section applies to a child who:
- (1) Enrolls for the first time in special education services at an Arkansas public school; and
 - (2) Has been previously determined by a school district in another state to be eligible for special education services due to a behavioral disability.
- (b) The Arkansas public school district shall conduct an evaluation of the child consistent with federal and state rules to determine the appropriate special education disability category recognized in this state, if any.
- (c)(1) If a child with a disability who had an individualized education program that was in effect in a previous public agency in another state transfers to a public agency in this state and enrolls in a new school within the same school year, the new public agency in consultation with the parents must provide the child with free appropriate public education including services comparable to those described in the child's individualized education program from the previous public agency until such time as the new public agency:
- (A) Conducts an evaluation pursuant to 34 C.F.R. § 300.304 through 34 C.F.R. § 300.306, if determined to be necessary by the new public agency; and

(B) Develops, adopts, and implements a new individualized education program, if appropriate, that meets the applicable requirements in 34 C.F.R. § 300.320 through 34 C.F.R. § 300.324.

(2) If the child's behavior results in an out-of-school suspension of ten (10) or more consecutive or nonconsecutive days or an expulsion during the period of time the child receives special education services under the disability category of behavioral disability, the child's individualized education program team shall meet to review the child's individualized education program, including the behavioral needs of the child and the current placement of the child, consistent with federal and state rules dealing with special education and related services.

(d) The Department of Education shall have the authority to promulgate rules as necessary to carry out the provisions of this section.

History. Acts 2009, No. 377, § 1.

SUBCHAPTER 2 — CHILDREN WITH DISABILITIES ACT

SECTION.

6-41-211. Advisory Council for the Education of Children with Disabilities.

SECTION.

6-41-217. Individualized education program.

6-41-211. Advisory Council for the Education of Children with Disabilities.

(a)(1) There shall be an Advisory Council for the Education of Children with Disabilities, which shall advise and consult with the Commissioner of Education and the Associate Director of the Special Education Section of the Department of Education and which shall engage in such other activities as are set forth in this section.

(2) The advisory council shall be advisory only and shall have no administrative responsibility or authority.

(b)(1) The advisory council shall be composed of individuals involved in, or concerned with, the education of children with disabilities, including:

(A) Parents of persons from birth to twenty-six (26) years of age with disabilities;

(B) Individuals with disabilities;

(C) Teachers;

(D) Representatives of institutions of higher education that prepare special education and related services personnel;

(E) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. § 11431 et seq.;

(F) Administrators of programs for children with disabilities;

(G) Representatives of other state agencies involved in the financing or delivery of related services to children with disabilities;

(H) Representatives of private schools and public charter schools;

(I) Not fewer than one (1) representative of a vocational, community, or business organization concerned with the provision of transitional services to children with disabilities;

(J) Representatives from the state juvenile and adult corrections agencies; and

(K) A representative from the Arkansas child welfare agency responsible for foster care.

(2) A majority of the members of the panel shall be individuals with disabilities or parents of persons from birth to twenty-six (26) years of age with disabilities.

(c)(1) The commissioner shall appoint the members of the advisory council for three-year terms.

(2) Appointees may be eligible for reappointment for one (1) term.

(d) Vacancies which leave unexpired terms shall be filled in the regular manner for the unexpired period of time, and vacancies as a result of expiration of terms shall be filled in the regular manner for three-year periods.

(e) The advisory council shall elect annually its own chair and vice chair.

(f) The associate director shall meet with and act as secretary to the advisory council and, subject to the availability of personnel, facilities, and appropriations, shall furnish meeting facilities and staff services for the advisory council.

(g) The advisory council shall:

(1) Advise the Department of Education of unmet needs within the state in the education of children with disabilities;

(2) Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;

(3) Advise the department in developing evaluations and reporting on data to the Secretary of Education under 20 U.S.C. § 1418;

(4) Advise the department in developing corrective action plans to address findings identified in federal monitoring reports under Title 20, Chapter 33, Subchapter II of the United States Code; and

(5) Advise the department in developing and implementing policies relating to the coordination of services for children with disabilities.

History. Acts 1973, No. 102, § 15; 1975, No. 641, § 6; A.S.A. 1947, § 80-2129; Acts 1993, No. 294, § 14; 1995, No. 1296, § 30; 1999, No. 391, §§ 27, 28; 2005, No. 2151, § 28; 2009, No. 376, § 49.

Amendments. The 2009 amendment substituted "Title 20, Chapter 33, Subchapter II of the United States Code" for "this part" in (g)(4).

6-41-217. Individualized education program.

(a) Before any action is taken with respect to the initial placement of a child with disabilities in a special education program, a full and individual evaluation of the child's educational needs must be conducted.

(b)(1) Prior to placement in special education services, each child must have an individualized education program.

(2) The term “individualized education program” or “IEP” means a written statement for each child with disabilities that is developed, reviewed, and revised in accordance with the requirements of the Individuals with Disabilities Education Act.

(3) The individualized education program shall include:

(A) A statement of the child’s present levels of academic achievement and functional performance, including:

(i) How the child’s disability affects the child’s involvement and progress in the general education curriculum;

(ii) For preschool children, as appropriate, how the disability affects the child’s participation in appropriate activities; and

(iii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

(B) A statement of measurable annual goals, including academic and functional goals, designed to:

(i) Meet the child’s needs that result from the child’s disability in order to enable the child to be involved in and to make progress in the general education curriculum; and

(ii) Meet each of the child’s other educational needs that result from the child’s disability;

(C) A description of how the child’s progress toward meeting the annual goals described in subdivision (b)(3)(B) of this section will be measured and when periodic reports will be provided on the progress the child is making toward meeting the annual goals, including, but not limited to, the use of quarterly or other periodic reports, concurrent with the issuance of report cards;

(D) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child:

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and to make progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and to participate with other children with disabilities and nondisabled children in the activities described in this section;

(E) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in this section;

(F)(i) A statement of any individual-appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on statewide and districtwide assessments consistent with the Individuals with Disabilities Education Act, regarding participation in assessments of students with disabilities in all general statewide and districtwide assessment programs.

(ii) If the individualized education program team determines that the child shall take an alternative assessment on a particular statewide or districtwide assessment of student achievement, a statement of why:

(a) The child cannot participate in the regular assessment; and

(b) The particular alternate assessment selected is appropriate for the child;

(G) The projected date for the beginning of the services and modifications described in this section, and the anticipated frequency, location, and duration of those services and modifications; and

(H)(i)(a) Beginning not later than the first individualized education plan to be in effect when the child is sixteen (16) years of age and updated annually thereafter, appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and when appropriate, independent living skills.

(b) The individualized education program shall also include the transition services, including courses of study, needed to assist the child in reaching those goals.

(ii) Beginning no later than one (1) year before the child reaches the age of majority under state law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under the Individuals with Disabilities Education Act.

(c) Nothing in this section shall be construed to require the individualized education program team to include information under one (1) component of a child's individualized education program that is already contained under another component of such individualized education program.

History. Acts 1973, No. 102, § 19; 1983, No. 762, § 1; A.S.A. 1947, § 80-2133; Acts 1993, No. 294, § 14; 1999, No. 391, § 31; 2005, No. 2151, § 30; 2009, No. 376, § 50.

Amendments. The 2009 amendment inserted "individualized education program shall also include the" in (b)(3)(H)(i)(b).

SUBCHAPTER 4 — IMPROVEMENT OF EDUCATIONAL SERVICES FOR VISUALLY IMPAIRED STUDENTS

SECTION.

6-41-403. Assessment of student progress.

6-41-404. Braille instruction.

SECTION.

6-41-407. Accommodation for students with sensory processing difficulty.

6-41-403. Assessment of student progress.

(a) Each school district shall ensure that at least one (1) time per year a licensed teacher of the visually impaired, or other qualified person as determined by the Department of Education, conducts an assessment of the educational progress of each visually impaired

student enrolled in that school district identified as having or suspected of having a disability pursuant to the Children with Disabilities Act of 1973, § 6-41-201 et seq. The assessment shall:

- (1) Address the student’s need for braille instruction, using procedures developed by the department, and specify the learning medium most appropriate for the student’s educational progress;
 - (2) Identify the student’s strengths and weaknesses in braille skills when that medium is used for instruction; and
 - (3) Identify appropriate and necessary related services and technologies for use in combination with braille instruction.
- (b) The results of the assessment shall be used to develop the student’s individualized education program.

History. Acts 1993, No. 483, § 3; 2009, No. 376, § 51; 2013, No. 1138, § 73. The 2013 amendment substituted “licensed teacher” for “certified teacher” in (a).
Amendments. The 2009 amendment substituted “individualized education program” for “individual education plan” in (b).

6-41-404. Braille instruction.

Each student who needs braille reading and writing instruction shall receive instruction from either a licensed teacher of the visually impaired or a person who is qualified in braille instruction as determined by the Department of Education.

History. Acts 1993, No. 483, § 4; 2013, No. 1138, § 74. substituted “licensed teacher” for “certified teacher” in the first paragraph.
Amendments. The 2013 amendment

6-41-407. Accommodation for students with sensory processing difficulty.

When administering a state-mandated assessment or a state-mandated test, the Department of Education and each school district shall allow a student that has been evaluated through appropriate testing, including a comprehensive eye examination by an optometrist or an ophthalmologist, and identified as having difficulty with sensory processing in reaction to oversensitivity to full spectrum light to use color overlays specific to the student’s oversensitivity that alter the contrast between the words and the page so that the student can visually comprehend the words on a page of a state mandated assessment or a state-mandated test.

History. Acts 2009, No. 1460, § 1.

SUBCHAPTER 5 — TASK FORCE ON MEDICALLY FRAGILE, CHRONICALLY ILL, OR TECHNOLOGY-DEPENDENT STUDENTS

SECTION.

6-41-501, 6-41-502. [Repealed.]

6-41-503. Duties — Rules and regulations.

SECTION.

6-41-504. [Repealed.]

A.C.R.C. Notes. Acts 2013, No. 1182, § 1, provided:

“(a) The General Assembly finds that:

“(1) Many children who are medically fragile are unable to physically attend school on a regular basis;

“(2) Children with permanent or temporary medical conditions are entitled to the same educational opportunities as children without medical conditions; and

“(3) Technological advances and other programs may help ensure that the educational needs of children who are medically fragile are met when the children are unable to physically attend school.

“(b)(1) The Department of Education shall conduct a study to determine the best options for providing education to medically fragile children.

“(2) The study shall include without limitation:

“(A) The number of children enrolled in public school that are unable to attend school on a regular basis due to a permanent or temporary medical condition;

“(B) The current programs or assistance provided by the department or a

school district to children who are medically fragile to ensure the educational needs of children who are medically fragile are being met;

“(C) Possible changes to programs or assistance provided by the department or a school district to medically fragile children to improve the educational opportunities that children who are medically fragile receive;

“(D) A review of the practices, policies, and trends regarding education for children who are medically fragile in other states, including how the practices, policies, and trends could be applied in Arkansas; and

“(E) An analysis of how technological advances can assist schools in meeting the educational needs of children who are medically fragile.

“(3) The department shall submit a report to the Senate Committee on Education and the House Committee on Education no later than December 1, 2013, that contains information learned from the study and findings and recommendations of the department as a result of the study.”

6-41-501, 6-41-502. [Repealed.]

Publisher’s Notes. These sections, concerning the Task Force on Medically Fragile, Chronically Ill, or Technology-Dependent Students, was repealed by

Acts 2013, No. 1155, § 18. The sections were derived from the following sources:

6-41-501. Acts 1995, No. 1146, § 1.

6-41-502. Acts 1995, No. 1146, § 2.

6-41-503. Duties — Rules and regulations.

The task force shall also, as a minimum:

(1) Determine and recommend to the State Board of Education rules and regulations identifying the appropriate role and responsibility of public school employees, including licensed, classified, and school health service personnel, and that of medical personnel in the provision of services to these students; and

(2) Determine and make recommendations to the state board rules and regulations on what facilities and support services are necessary to meet the needs of these students.

History. Acts 1995, No. 1146, § 3; 2013, No. 1138, § 75.

A.C.R.C. Notes. Acts 2013, No. 1155, § 21 provided, “The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Eighty-Ninth General Assembly. All such acts shall have full force and effect, and so far as those acts intentionally vary from or conflict with any

provision contained in this act, those acts shall have the effect of subsequent acts amending or repealing the appropriate parts of the Arkansas Code of 1987.”

This section was repealed by Acts 2013, No. 1155, § 18, but the repeal was superseded by the amendment to the section by Acts 2013, No. 1138, § 75.

Amendments. The 2013 amendment substituted “licensed” for “certified” in (1).

6-41-504. [Repealed.]

Publisher’s Notes. This section, concerning the Task Force on Medically Fragile, Chronically Ill, or Technology-Dependent Students, was repealed by Acts 2013,

No. 1155, § 18. The section was derived from Acts 1995, No. 1146, § 3; Acts 1997, No. 112, § 13.

SUBCHAPTER 6 — DYSLEXIA AND RELATED DISORDERS

SECTION.

- 6-41-601. Findings.
- 6-41-602. Definitions.
- 6-41-603. Required screening and intervention.
- 6-41-604. Additional dyslexia evaluation and services.
- 6-41-605. Instructional approaches.
- 6-41-606. Reporting by school district.

SECTION.

- 6-41-607. Dyslexia specialist.
- 6-41-608. Dyslexia professional awareness.
- 6-41-609. Dyslexia and related disorder education in teacher preparation programs.
- 6-41-610. Rules — Dyslexia resource guide.

A.C.R.C. Notes. Acts 2013, No. 1294, § 2, provided:

“(a) The Department of Education shall convene a dysgraphia and dyscalculia working group to determine the appropriate responses for students with dysgraphia and dyscalculia and to ensure

that the needs of those students are met.

“(b) The department shall report the result of the working group to the Senate Committee on Education and the House Committee on Education no later than November 1, 2013.”

6-41-601. Findings.

The General Assembly finds that:

(1) Dyslexia, if not diagnosed early, can be severely detrimental to a child’s academic success as well as his or her self-esteem;

(2) Most children identified as having markers of dyslexia and related disorders can be successfully treated; and

(3) The cost of screening and treating dyslexia or a related disorder early is significantly less than the cost of intensive remediation in the later school years for a child with dyslexia or a related disorder.

History. Acts 2013, No. 1294, § 1.

6-41-602. Definitions.

As used in this subchapter:

- (1) “Dyslexia” means a specific learning disability that is:
 - (A) Neurological in origin;
 - (B) Characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language; and
 - (C) Often unexpected in relation to other cognitive abilities;
- (2) “Dyslexia therapist” means a professional who has completed training and obtained certification in dyslexia therapy from a dyslexia therapy training program approved by the Department of Education; and
- (3) “Dyslexia therapy” means an appropriate specialized dyslexia instructional program that is:
 - (A) Delivered by a dyslexia therapist;
 - (B) Systematic, multi sensory, and research based; and
 - (C) Offered in a small group setting to teach students the components of reading instruction, including without limitation:
 - (i) Phonemic awareness to enable a student to detect, segment, blend, and manipulate sounds in spoken language;
 - (ii) Graphophonemic knowledge for teaching the letter-sound plan of English;
 - (iii) The structure of the English language that includes morphology, semantics, syntax, and pragmatics;
 - (iv) Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and
 - (v) Strategies that students use for decoding, encoding, word recognition, fluency, and comprehension.

History. Acts 2013, No. 1294, § 1.

6-41-603. Required screening and intervention.

(a)(1) A school district shall screen each student in kindergarten through grade two (K-2) and others required by the Department of Education rule using the Dynamic Indicators of Basic Early Literacy Skills (DIBELS).

(2) The screening of students shall be performed with fidelity and include without limitation:

- (A) Phonological and phonemic awareness;
- (B) Sound symbol recognition;
- (C) Alphabet knowledge;

- (D) Decoding skills;
- (E) Rapid naming skills; and
- (F) Encoding skills.

(b) The Department of Education shall adopt rules to ensure that students will be screened using DIBELS:

- (1) In kindergarten through grade two (K-2);
- (2) When a student in kindergarten through grade two (K-2) transfers to a new school and has not been screened;
- (3) When a student in grade three (3) or higher has difficulty, as noted by a classroom teacher, in:
 - (A) Phonological and phonemic awareness;
 - (B) Sound-symbol recognition;
 - (C) Alphabet knowledge;
 - (D) Decoding skills;
 - (E) Rapid naming skills; and
 - (F) Encoding skills; and
- (4) When a student from another state enrolls for the first time in Arkansas in kindergarten through grade two (K-2) unless the student presents documentation that the student:
 - (A) Had the screening or a similar screening; or
 - (B) Is exempt from screening.

(c)(1) If the DIBELS screening indicates that a student has markers for dyslexia and needs intervention, the Response to Intervention (RTI) shall be used to address the needs of the student.

(2) If the RTI indicates the possibility of dyslexia, the student shall be evaluated for dyslexia.

(3)(A) If the dyslexia evaluation indicates that a student is dyslexic, the student shall be provided therapeutic services.

(B) If it is determined that the student has functional difficulties in the academic environment due to dyslexia, the necessary accommodations or equipment for the student shall be provided under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, as they existed on February 1, 2013.

(C) Therapeutic services may be provided by a tutor who is a highly qualified and trained interventionist.

(d) If a student's performance on the DIBELS screening under subdivision (c)(1) of this section indicates a need for additional screening, the student may receive additional testing by a trained professional using a norm-referenced test.

History. Acts 2013, No. 1294, § 1.

6-41-604. Additional dyslexia evaluation and services.

(a) If a student's performance on a dyslexia evaluation under § 6-41-603(c)(3) indicates a need for dyslexia therapy services, the student's parent or legal guardian shall be:

- (1) Notified of the results of the dyslexia evaluation; and

(2) Provided with information and resource material, including without limitation:

(A) The common indicators of dyslexia;

(B) Appropriate classroom interventions and accommodations for students with dyslexia; and

(C) The right of the parent or legal guardian to have the student receive an independent evaluation by a:

(i) Licensed psychological examiner;

(ii) School psychology specialist;

(iii) Licensed speech-language pathologist; or

(iv) Certified dyslexia training specialist.

(b) If a student's performance on a dyslexia evaluation under § 6-41-603(c)(3) indicates the need for dyslexia therapy services, the school district may perform a comprehensive dyslexia evaluation in addition to the required Response to Intervention (RTI) under § 6-41-603(c)(2).

(c) If a parent or legal guardian chooses to have an independent evaluation for the student, the school district shall consider the diagnosis from the independent evaluation and allow the student to receive direct intervention from a dyslexia therapist.

History. Acts 2013, No. 1294, § 1.

6-41-605. Instructional approaches.

(a) Dyslexia therapy for a student whose dyslexia evaluation under § 6-41-603(c)(3) indicates the need for dyslexia therapy services shall be provided with fidelity and include the following instructional approaches:

(1) Explicit, direct instruction that is systematic, sequential, and cumulative and follows a logical plan of presenting the alphabetic principle that targets the specific needs of the student without presuming prior skills or knowledge of the student;

(2) Individualized instruction to meet the specific needs of the student in a small group setting that uses intensive, highly concentrated instruction methods and materials that maximize student engagement;

(3) Meaning-based instruction directed at purposeful reading and writing with an emphasis on comprehension and composition; and

(4) Multisensory instruction that incorporates the simultaneous use of two (2) or more sensory pathways during teacher presentations and student practice.

(b) Until there are a sufficient number of graduates from a dyslexia therapy program established at the university level in Arkansas or from a dyslexia therapy program established at the university level in another state that is approved by the Department of Education, the department shall allow dyslexia therapy to be provided by individuals who have received training and certification from a program approved by the department.

History. Acts 2013, No. 1294, § 1.

6-41-606. Reporting by school district.

The superintendent of a school district annually shall report the results of the school district screening required under § 6-41-603.

History. Acts 2013, No. 1294, § 1.

6-41-607. Dyslexia specialist.

(a) No later than the 2015 fiscal year, the Department of Education shall employ at least one (1) dyslexia specialist who is a dyslexia therapist, licensed psychologist, licensed psychometrist, licensed speech-language pathologist, or certified dyslexia training specialist with a minimum of three (3) years of field experience in screening, identifying, and treating dyslexia and related disorders to provide technical assistance for dyslexia and related disorders to school districts across the state.

(b) The dyslexia specialist shall:

(1) Be highly trained in dyslexia and related disorders, including best-practice interventions and treatment models;

(2) Be responsible for the accountability of screening results and the implementation of professional awareness required under § 6-41-608; and

(3) Serve as the primary source of information and support for school districts addressing the needs of students with dyslexia and related disorders.

(c)(1) The department shall ensure that at least one (1) staff member at each education service cooperative is trained as a dyslexia specialist to provide necessary information and support to school districts.

(2) A dyslexia specialist shall have completed training and received certification from a program approved by the department.

(d) No later than the 2015-2016 academic year, a school district shall have individuals to serve as dyslexia interventionists as defined in the Resource Guide for Specific Learning Disabilities (SLD)/Dyslexia who are trained as dyslexia interventionists:

(1) By the department; or

(2) Using other dyslexia training programs approved by the department.

History. Acts 2013, No. 1294, § 1.

6-41-608. Dyslexia professional awareness.

(a) No later than the 2014-2015 school year, the Department of Education shall ensure that each teacher receives professional awareness on:

(1) The indicators of dyslexia; and

(2) The science behind teaching a student who is dyslexic.

- (b) Professional awareness may be provided:
- (1) Online;
 - (2) At an education service cooperative; or
 - (3) At another venue approved by the department.

History. Acts 2013, No. 1294, § 1.

6-41-609. Dyslexia and related disorder education in teacher preparation programs.

The Department of Education shall collaborate with the Department of Higher Education to ensure that all teacher education programs offered at state-supported institutions of higher education include information on the identification of students at risk for dyslexia and related disorders.

History. Acts 2013, No. 1294, § 1.

6-41-610. Rules — Dyslexia resource guide.

(a) The Department of Education shall adopt rules to implement this subchapter.

(b) The department shall maintain and update the Resource Guide for Specific Learning Disabilities (SLD)/Dyslexia that is used as a guide for school districts, public schools, and teachers.

History. Acts 2013, No. 1294, § 1.

CHAPTER 42

GIFTED AND TALENTED CHILDREN

SUBCHAPTER 3 — ARKANSAS SCHOOL FOR MATHEMATICS, SCIENCES, AND THE ARTS

A.C.R.C. Notes. Acts 2013, No. 1031, § 23, provided: “SCHOOL FOR MATHEMATICS, SCIENCES AND THE ARTS TEACHER GRANT RELATED FUNDING PROVISION. Teachers of the School for Mathematics, Sciences, and the Arts who, in addition to fulfilling annual teaching contract requirements also write grants, grant progress reports and write and publish papers may be authorized as additional annual compensation an

amount up to 1/10 of their annual salary. Such additional compensation shall not be construed as exceeding the maximum salary authorized for said employees. The additional compensation authorized by this section shall not be paid from state general revenues or Educational Excellence Trust Fund monies.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

CHAPTER 43

ARKANSAS SCHOOL FOR THE BLIND AND ARKANSAS SCHOOL FOR THE DEAF

SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS SCHOOL FOR THE BLIND.
3. ARKANSAS SCHOOL FOR THE DEAF.

SUBCHAPTER 1 — GENERAL PROVISIONS

SECTION.

6-43-113. Compensation limitation.

6-43-115. [Repealed.]

6-43-102. Powers and duties of board.

A.C.R.C. Notes. Acts 2013, No. 1046, § 11, provided: “**SHARED SERVICES.** The Chief Fiscal Officer of the State and the State Treasurer are authorized to establish a joint paying account in the State Treasury, upon direction of the Board of Trustees for the Arkansas School for the Blind and the Arkansas School for the Deaf. The Board may transfer positions, funds and appropriations to the paying account from either school to serve both schools in the areas of Accounting, Personnel, Inventory, Safety and Health Services.

“Funding and appropriations for this account will be from transfers from the fund accounts and appropriations of each agency and shall be divided proportionately from each agency based on student population. Said funds shall be payable from the joint account as if the positions and other budgetary line items of appropriation had originally been established in the joint account. Supervision of this account and supervision of the positions within may come from either school as determined by the Board of Trustees.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

Acts 2013, No. 1047, § 13, provided: “**SHARED SERVICES.** The Chief Fiscal Officer of the State and the State Treasurer are authorized to establish a joint paying account in the State Treasury, upon direction of the Board of Trustees for the Arkansas School for the Blind and the Arkansas School for the Deaf. The Board may transfer positions, funds and appropriations to the paying account from either school to serve both schools in the areas of Accounting, Personnel, Inventory, Safety and Health Services.

“Funding and appropriations for this account will be from transfers from the fund accounts and appropriations of each agency and shall be divided proportionately from each agency based on student population. Said funds shall be payable from the joint account as if the positions and other budgetary line items of appropriation had originally been established in the joint account. Supervision of this account and supervision of the positions within may come from either school as determined by the Board of Trustees.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

6-43-113. Compensation limitation.

(a) No employee drawing a salary or other form of compensation from the Arkansas School for the Blind or the Arkansas School for the Deaf shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that

agency, nor from any other agency or institution of higher education, except from the superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two (2) positions has the higher authorized maximum annual salary.

(b) Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until the employee shall repay to the State of Arkansas any sums received by the employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

History. Acts 1993, No. 496, § 12; 1993, No. 497, § 14; 1995, No. 810, § 12; 1995, No. 957, § 14; Acts 2013, No. 1138, § 76.

A.C.R.C. Notes. Acts 2013, No. 1046, § 10, provided: "ADDITIONAL SALARY/COMPENSATION PROVISION. No employee drawing a salary or other form of compensation from the Arkansas Schools for the Deaf or Blind shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education, except from the Superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties, and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two positions has the higher authorized maximum annual salary.

"Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

"The provisions of this section shall be

in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1047, § 8, provided: "ADDITIONAL SALARY/COMPENSATION PROVISION. No employee drawing a salary or other form of compensation from the Arkansas Schools for the Deaf or Blind shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education, except from the Superintendent's written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee's primary duties, and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two positions has the higher authorized maximum annual salary.

"Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Amendments. The 2013 amendment substituted “the” for “such” twice preceding “employee” in (b).

6-43-115. [Repealed.]

A.C.R.C. Notes. Acts 2013, No. 1046, § 10, provided: “**ADDITIONAL SALARY/COMPENSATION PROVISION.** No employee drawing a salary or other form of compensation from the Arkansas Schools for the Deaf or Blind shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education, except from the Superintendent’s written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee’s primary duties, and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two positions has the higher authorized maximum annual salary.

“Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

Acts 2013, No. 1047, § 8, provided: “**ADDITIONAL SALARY/COMPENSATION PROVISION.** No employee drawing

a salary or other form of compensation from the Arkansas Schools for the Deaf or Blind shall be paid an additional salary or receive additional compensation, other than reimbursement for actual expenses, from that agency, nor from any other agency or institution of higher education, except from the Superintendent’s written certification to and approval by the Chief Fiscal Officer of the State that the work performed by the employee for the other position does not interfere with the proper and required performance of the employee’s primary duties, and that the combined salary payments from both positions will not exceed the maximum annual salary for whichever of the two positions has the higher authorized maximum annual salary.

“Any employee knowingly violating the provisions of this section shall be subject to immediate termination and shall be barred from employment by any agency or institution of the State of Arkansas for a period of not less than three (3) years or until such employee shall repay to the State of Arkansas any sums received by such employee in violation of this section, together with interest at a rate of ten percent (10%) per annum.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

Publisher’s Notes. This section, concerning additional compensation for employees, was repealed by Acts 2013, No. 1138, § 77. The section was derived from Acts 1997, No. 1005, § 12; 1997, No. 1086, § 12.

6-43-116. Special allowance.

A.C.R.C. Notes. Acts 2013, No. 1047, § 7, provided: “**SPECIAL ALLOWANCE.** The Arkansas Schools for the Deaf and Blind may make special allowances available to any employee who performs one of the following duties in addition to their normal duties:

“1) Teaching adult education classes, parent training, student tutorial services on weekends or evenings

“2) Coaching one or more sports

“3) Sponsoring a club or organization that involves additional hours outside of the normal working day.

"4) Interpretive Services

"Compensation for additional duties may not exceed \$3,500 per school term for any one employee during each fiscal year. Such additional compensation shall not be construed as exceeding the maximum salary authorized for said employee.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1046, § 9, provided: "SPECIAL ALLOWANCE. The Arkansas Schools for the Deaf and Blind may make special allowances available to any employee who performs one of the following duties in addition to their normal duties:

"1) Teaching adult education classes, parent training, student tutorial services on weekends or evenings

"2) Coaching one or more sports

"3) Sponsoring a club or organization that involves additional hours outside of the normal working day

"4) Interpretive Services

"Compensation for additional duties may not exceed \$3,500 per school term for any one employee during each fiscal year. Such pay shall not be construed as exceeding the maximum salary authorized for said position.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

SUBCHAPTER 2 — ARKANSAS SCHOOL FOR THE BLIND

SECTION.

6-43-223. Reports — Publication.

6-43-213. Salaries.

A.C.R.C. Notes. Acts 2013, No. 1047, § 7, provided: "SPECIAL ALLOWANCE. The Arkansas Schools for the Deaf and Blind may make special allowances available to any employee who performs one of the following duties in addition to their normal duties:

"1) Teaching adult education classes, parent training, student tutorial services on weekends or evenings

"2) Coaching one or more sports

"3) Sponsoring a club or organization that involves additional hours outside of the normal working day.

"4) Interpretive Services

"Compensation for additional duties may not exceed \$3,500 per school term for any one employee during each fiscal year. Such additional compensation shall not be construed as exceeding the maximum salary authorized for said employee.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1046, § 9, provided: "SPECIAL ALLOWANCE. The Arkansas Schools for the Deaf and Blind may make special allowances available to any employee who performs one of the following duties in addition to their normal duties:

"1) Teaching adult education classes, parent training, student tutorial services on weekends or evenings

"2) Coaching one or more sports

"3) Sponsoring a club or organization that involves additional hours outside of the normal working day

"4) Interpretive Services

"Compensation for additional duties may not exceed \$3,500 per school term for any one employee during each fiscal year. Such pay shall not be construed as exceeding the maximum salary authorized for said position.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

6-43-223. Reports — Publication.

(a) The Board of Trustees and the Superintendent of the Arkansas School for the Blind shall make a full and complete report, to be submitted to the Governor and the General Assembly, not later than January 15 of each year the General Assembly is in regular session.

(b) These reports shall deal with improvements made during the previous two (2) fiscal years, together with the suggestions and recommendations covering the institution for the next two-year period.

(c) The report of the board of trustees shall cover the preceding school year.

(d)(1) The board of trustees and the superintendent shall each make detailed reports biennially to the General Assembly of their proceedings, the condition of the school, the number of pupils, and other facts connected with the institution, including the exact receipts and expenditures of the board of trustees.

(2) The superintendent shall report to the board of trustees prior to each regular session of the General Assembly a detailed statement of the number of pupils admitted and discharged, their place of residence and supposed cause of blindness, the amount of money expended and for what purpose, and the probable sum necessary to defray the current expenses of the institution until the next regular session of the General Assembly, which report shall be embodied in that of the board of trustees.

(e)(1) The reports shall be made and printed together not later than January 15 of each year the General Assembly is in regular session.

(2) There shall be, of each biennial report of the board of trustees to the General Assembly, one thousand five hundred (1,500) copies printed, one thousand (1,000) for the use of the General Assembly and five hundred (500) for the school.

History. Acts 1868, No. 50, §§ 11, 20, 27, p. 154; 1911, No. 434, § 7; C. & M. Dig., §§ 9464, 9467, 9475, 9478; Pope's Dig., §§ 12867, 12870, 12878, 12881; A.S.A. 1947, §§ 80-2203, 80-2204, 80-2214, 80-2217; Acts 2009, No. 962, § 4.

Amendments. The 2009 amendment

inserted "regular" preceding "session" in (a)(1), (a)(4)(B), and (a)(5)(A); in (a)(2), substituted "the previous two (2) fiscal years" for "biennial period covered by them" and "two-year period" for "legislative period"; and substituted "next regular session" for "ensuing session" in (a)(4)(B).

SUBCHAPTER 3 — ARKANSAS SCHOOL FOR THE DEAF

SECTION.

6-43-311. Biennial reports.

6-43-305. Teachers generally.

A.C.R.C. Notes. Acts 2013, No. 1046, § 15, provided: "TEACHER SALARY INCREASE. In the event that an act is enacted in which the public schools receive funds from the General Assembly to raise the salaries of teachers employed in the public school districts, the Arkansas School for the Deaf and the Arkansas School for the Blind shall be included.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

Acts 2013, No. 1047, § 14, provided: "TEACHER SALARY INCREASE. In the event that an act is enacted in which the public schools receive funds from the General Assembly to raise the salaries of teachers employed in the public school districts, the Arkansas School for the Deaf and the Arkansas School for the Blind shall be included.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

6-43-311. Biennial reports.

(a) The Board of Trustees and the Superintendent of the Arkansas School for the Deaf shall make a full and complete report to be submitted to the Governor, which shall be printed together and presented to the General Assembly not later than January 16 of each year the General Assembly is in regular session.

(b) The report of the board of trustees shall cover the two (2) preceding calendar years, and the report of the superintendent shall cover the two (2) preceding school years.

(c) These reports shall deal with the improvements made during the biennial period covered by them, together with the suggestions and recommendations concerning the school for the next biennium.

History. Acts 1911, No. 442, § 6; C. & M. Dig., § 9368; Pope's Dig., § 12833; A.S.A. 1947, § 80-2311; Acts 2009, No. 962, § 5.

Amendments. The 2009 amendment inserted "regular" preceding "session" in (a).

6-43-320. Shift differential.

A.C.R.C. Notes. Acts 2013, No. 1047, § 9, provided: "SHIFT DIFFERENTIAL. For Arkansas School for the Deaf, shift work must begin not earlier than 2:00 p.m. and end no later than 8:00 a.m. the

following day.

"The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014."

CHAPTER 45**ARKANSAS BETTER CHANCE PROGRAM****SECTION.**

6-45-103. Definitions.

6-45-105. Establishment of the Arkansas Better Chance Program.

SECTION.

6-45-111. Early childhood program assessments.

A.C.R.C. Notes. Acts 2013, No. 1309, § 25, provided: "BETTER CHANCE PROGRAM ADMINISTRATIVE FEES. The Department of Education is hereby authorized to expend a maximum of two percent (2%) of available funds for administration of the Better Chance Program. Up to 1.8% of available funds shall be used to administer the program and to monitor program grantees to ensure compliance with programmatic standards. Prior to the utilization of the remaining 0.2% of available funds, the Department of Education shall seek prior review and approval of the Arkansas Legislative Council or Joint Budget Committee by providing a written request to include the following: a) the

Department's reason(s) for the use of the funds and b) the amount of funds that will be expended. The Department may contract with the Division of Child Care and Early Childhood Education to administer the program.

"Determining the maximum number of employees and the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation act(s) for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization law. Therefore,

it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the re-

quirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

“The provisions of this section shall be in effect only from July 1, 2013 through June 30, 2014.”

6-45-103. Definitions.

As used in this chapter:

(1) “Appropriate early childhood program” means a developmentally appropriate program for young children, birth through five (5) years of age, approved by the Department of Education as complying with the regulatory guidelines of the early childhood state accreditation by the Department of Human Services and Arkansas Better Chance Core Quality Approval Standards of the Department of Education to be issued by the Department of Education pursuant to this chapter;

(2) “Arkansas Better Chance for School Success” means a developmentally appropriate early care and education program for children three (3) and four (4) years of age created under § 6-45-105(a)(1)(B);

(3) “Arkansas Early Childhood Commission” or “commission” means a twenty-five member advisory body appointed by the Governor to perform certain duties and responsibilities relating to the development, expansion, and coordination of early childhood programs, including, but not limited to, serving as the advisory body to the Department of Education on early childhood program issues;

(4) “Arkansas HIPPY Advisory Board” means a citizen board appointed through the Home Instruction for Parents of Preschool Youngsters (HIPPY) Regional Technical Assistance and Training Center to develop public awareness, to promote program expansion, to encourage local development of the Home Instruction for Parents of Preschool Youngsters, and to provide consultation and guidance to the center; and

(5) “Department” means the Department of Education or its authorized agents.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1997, No. 1132, § 36; 1999, No. 1222, § 3; 2003, No. 1105, § 1; 2003, No. 1332, § 2; 2009, No. 28, § 1; 2013, No. 403, § 1.

Amendments. The 2009 amendment

substituted “a twenty-four (24) member” for “an eighteen-member” in (3).

The 2013 amendment substituted “twenty-five member” for “twenty-four member” in (3).

6-45-105. Establishment of the Arkansas Better Chance Program.

(a)(1)(A) The Department of Education shall establish the Arkansas Better Chance Program to assist in the establishment and funding of

the appropriate early childhood programs for children from birth through five (5) years of age.

(B) Within the Arkansas Better Chance Program there is established the Arkansas Better Chance for School Success Program for providing appropriate early care and education programs for children three (3) years of age and four (4) years of age as identified under § 6-45-108(a).

(2)(A) Beginning with the 1991-1992 school year, the department shall award grants or contracts to appropriate early childhood programs selected by the department in accordance with specified programmatic standards.

(B)(i) These standards will be developed by the department, with the advice and assistance of the Arkansas Early Childhood Commission.

(ii) Standards for funding the Home Instruction Program for Preschool Youngsters will be developed in conjunction with the Arkansas HIPPY Advisory Board.

(C) The Home Instruction for Parents of Preschool Youngsters Regional Technical Assistance and Training Center shall be defined and funded as an integral part of the Home Instruction for Parents of Preschool Youngsters to provide necessary training, technical assistance, and program support to program sites in Arkansas.

(b) The programmatic standards and other rules and regulations necessary for the implementation of the Arkansas Better Chance Program shall be adopted by the State Board of Education in accordance with the provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c)(1) The department may expend a maximum of two percent (2%) of available funds to administer the Arkansas Better Chance Program and to monitor Arkansas Better Chance Program grantees to ensure compliance with programmatic standards.

(2) The department may contract with the Division of Child Care and Early Childhood Education to administer the Arkansas Better Chance Program.

History. Acts 1991, No. 212, § 1; 1991, No. 216, § 1; 1993, No. 923, § 1; 1997, No. 1132, § 38; 2003, No. 1332, § 4; 2009, No. 376, § 52.

Amendments. The 2009 amendment, in (c), substituted "Arkansas Better Chance Program" for "program" in three places, and made a minor stylistic change.

6-45-111. Early childhood program assessments.

(a) The Division of Child Care and Early Childhood Education shall assess each early childhood program in this state that receives state funding under this subchapter based on nationally recognized standards and assessments that may include without limitation the following components:

- (1) Curriculum and learning environment;
- (2) Training and education of staff;

- (3) Adult-to-child ratios;
- (4) Student assessments;
- (5) Health and safety conditions;
- (6) Family involvement; and
- (7) Site visits.

(b) The certification under § 6-45-109 of a child care facility that has an early childhood program is subject to the review of the assessment by the division.

(c) The division annually shall provide a summary of the results of assessments conducted under this section concerning the quality of the early childhood programs assessed to the Governor, the interim Senate Committee on Education, and the interim House Committee on Education.

History. Acts 2011, No. 1130, § 1.

CHAPTER 46

ARKANSAS HIGH TECHNOLOGY TRAINING CENTER

SUBCHAPTER.

3. ADMINISTRATION.

SUBCHAPTER 3 — ADMINISTRATION

SECTION.

6-46-303. Budget.

6-46-303. Budget.

(a) The Department of Career Education shall prepare the biennial budget request for the Arkansas High Technology Training Center's operation, which shall be submitted to the State Board of Career Education for inclusion in the biennial budget request of the department for funding programs from the Department of Workforce Education Fund Account.

(b) The department is authorized and empowered to receive contributions, donations, gifts, bequests of money, other forms of financial assistance, and property, equipment, materials, or personnel, from persons, foundations, trust funds, corporations, organizations, and other sources, private or public, to be expended and utilized for the operation of the center.

History. Acts 1993, No. 839, §§ 4, 7; 2009, No. 376, § 53.

Amendments. The 2009 amendment, in (a), substituted "Department of Work-

force Education Fund Account" for "Vocational Education Fund," and made minor punctuation and stylistic changes.

CHAPTER 47

DISTANCE LEARNING

SUBCHAPTER.

2. DISTANCE LEARNING COORDINATION.
3. DISTANCE LEARNING IMPLEMENTATION.
4. ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT.

SUBCHAPTER 2 — DISTANCE LEARNING COORDINATION

SECTION.

6-47-201. Administration in elementary schools.

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-47-201. Administration in elementary schools.

(a) The Department of Education shall oversee and coordinate the implementation of distance learning in elementary and secondary public schools in the state.

(b) The department shall promulgate rules and regulations establishing appropriate adult supervision.

(c)(1) The elementary or secondary school may import courses from outside the state if the out-of-state course provider is approved by the department before the school offers the courses through distance learning.

(2) A course offered through an approved out-of-state course provider under this subsection shall follow department course frameworks.

(d) The courses offered through distance learning shall include, but not be limited to:

(1) College preparatory courses, including, but not limited to, calculus, physics, Arkansas history, foreign languages, and computer science; and

(2) Technological courses, including, but not limited to, advanced math and science courses, advanced computer skills courses, and advanced courses in the arts.

(e) The department shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educational Television Commission, the education service cooperatives, and other state agencies involved in distance learning in implementing distance learning.

History. Acts 1999, No. 1083, § 1; 2009, No. 1469, § 25.

Amendments. The 2009 amendment rewrote (c).

SUBCHAPTER 3 — DISTANCE LEARNING IMPLEMENTATION

SECTION.
6-47-302. Implementation in elementary and secondary schools — Courses offered.

SECTION.
6-47-305. Distance Learning Coordinating Council.

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the state’s constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-47-302. Implementation in elementary and secondary schools — Courses offered.

- (a) The Department of Education shall plan for the statewide implementation of distance learning in elementary and secondary public schools in the state.

(b)(1) The elementary or secondary school may utilize courses from outside the state if the out-of-state course provider is approved by the Department of Education or the Department of Career Education before the school offers the courses through distance learning.

(2) A course offered through an approved out-of-state course provider under this subsection shall follow Department of Education course frameworks.

(c) The courses offered through distance learning may include college preparatory courses, advanced mathematics and science courses, and technological courses.

(d) The Department of Education shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educational Television Commission, the education service cooperatives, the Arkansas State Library, and other state agencies involved in distance learning.

History. Acts 1999, No. 1298, § 2; 2009, No. 1469, § 26.

Amendments. The 2009 amendment rewrote (b).

6-47-305. Distance Learning Coordinating Council.

(a) There is created an advisory body to the Department of Education to be known as the "Distance Learning Coordinating Council".

(b) The purpose of the coordinating council is to evaluate distance learning activities for kindergarten through grade twelve (K-12) education across the State of Arkansas and to determine whether distance learning activities are being fully utilized through a collaborative process that maximizes the utilization of the state's technical and educational resources.

(c) The coordinating council shall consist of the following members:

(1) One (1) member who is an employee of the Department of Education appointed by the Commissioner of Education;

(2) One (1) member who is an employee of the Arkansas Educational Television Network appointed by the Director of the Educational Television Division of the Department of Education;

(3) One (1) member who is an employee of the Arkansas School for Mathematics, Sciences, and the Arts appointed by the director of the Arkansas School for Mathematics, Sciences, and the Arts;

(4) One (1) member who is an employee of the Department of Information Systems appointed by the Director of the Department of Information Systems;

(5) One (1) member who is an employee of the Department of Information Services appointed by the Director of the Department of Information Services;

(6) One (1) member who is an employee of the Arkansas Science and Technology Authority appointed by the President of the Arkansas Science and Technology Authority;

(7) One (1) member who is an employee of the Department of Workforce Education appointed by the Director of the Department of Workforce Education;

(8) One (1) member who is employed by the Department of Higher Education appointed by the Director of the Department of Higher Education;

(9) One (1) member who is an employee of the Arkansas State Library appointed by the State Librarian;

(10) One (1) member who is an employee of an education service cooperative appointed by the Governor from a list of three (3) names submitted by the State Board of Education;

(11) One (1) member who is actively engaged in distance learning activities for grades kindergarten through twelve (K-12) education appointed by the Governor from the state at large;

(12) Two (2) members who are employed by telecommunications companies that are members of the Arkansas Telecommunications Association and appointed as follows:

(A) One (1) member shall be employed by a telecommunications company with more than seventy-five thousand (75,000) access lines and shall be appointed by the Governor from a list of three (3) names submitted by the association; and

(B) One (1) member shall be employed by a telecommunications company with less than seventy-five thousand (75,000) access lines and shall be appointed by the Governor from a list of three (3) names submitted by the association; and

(13) Members added by the commissioner to the coordinating council to represent other entities that are associated with grades kindergarten through twelve (K-12) distance learning and that come into existence after September 1, 2005.

(d)(1) Members shall serve three-year terms and are eligible for reappointment.

(2) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled in the same manner as the original appointment.

(3) The members of the coordinating council shall meet and organize immediately after their appointment and shall elect a chair, a vice chair, and a secretary-treasurer from the membership of the coordinating council.

(4) The coordinating council shall meet at least quarterly.

(5) Staff support shall be provided by appropriate personnel from the Department of Education, the Department of Workforce Education, the Department of Higher Education, the Division of Public School Academic Facilities and Transportation, the Division of Public School Accountability, and the state's public institutions of higher education with the assistance of any appropriate staff of the other agencies whose directors serve on the coordinating council.

(6) Nonstate employee members shall serve without compensation but may receive expense reimbursement in accordance with § 25-16-902.

(e) The coordinating council shall make recommendations at least annually to the Department of Education, the Division of Public School Academic Facilities and Transportation, the Division of Public School Accountability, the House Committee on Education, and the Senate Committee on Education with regard to the following:

(1) Distance learning standards and rules;

(2) Online distance learning curriculum;

(3) Supplemental distance learning course material;

(4) Coordination of distance learning services;

(5) Methods for fostering collaborative processes by which distance learning content can be shared more effectively with and delivered to public schools;

- (6) Strategies for reducing the occurrences of isolated distance learning activities;
- (7) Options for spreading distance learning costs and increasing the value of shared distance learning services; and
- (8) Improving utilization of distance learning resources.

History. Acts 1999, No. 1298, § 5; substituted "Department of Information Systems" for "Office of Information Technology" in two places in (c)(4).
 2005, No. 1425, § 1; 2007, No. 751, § 3;
 2013, No. 1073, § 35.

Amendments. The 2013 amendment

SUBCHAPTER 4 — ARKANSAS DISTANCE LEARNING DEVELOPMENT PROJECT

SECTION.

6-47-406. Public school district and char-

ter school distance learning program.

Effective Dates. Acts 2009, No. 1469, § 32: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it is the state's constitutional obligation to provide a general, suitable, and efficient free system of public schools in the state; that the public school funding distribution changes in this act are needed to ensure that proper funding is provided to the affected public schools and school districts; and that this act is immediately necessary so that the affected public schools and school districts will receive

the amount of funding for the current school year. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

6-47-406. Public school district and charter school distance learning program.

(a) Except as provided in subsection (b) of this section, a public school district or open-enrollment public charter school may offer and teach distance learning courses to a student enrolled in a private school or a home school if:

(1) The student resides in the public school district where the public school or open-enrollment public charter school is located;

(2) The student agrees to physically attend the public school or open-enrollment public charter school for the purposes of taking:

(A) A distance learning course taught through the public school or open-enrollment public charter school; and

(B) State tests and assessments required for the particular course or courses taken by the student; and

(3) The public school or open-enrollment public charter school teaches or offers a distance learning course that has been approved by

or otherwise complies with Department of Education rules and standards governing distance learning courses.

(b) The State Board of Education shall adopt rules to allow the Commissioner of Education to waive the requirements under subdivisions (a)(1) and (2) of this section on an individual basis for a student who is unable to attend due to conditions that prevent the child from physically attending a public school or an open-enrollment public charter school.

(c)(1) A public school district or open-enrollment public charter school that teaches or offers a distance learning course to one (1) or more home-schooled or private school students who meet the conditions of subsection (a) or subsection (b) of this section shall be entitled to an amount equal to one-sixth ($1/6$) of the state foundation funding amount for each course taught to a private school student or home-schooled student.

(2) However, under no circumstances shall a public school district or open-enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership per student regardless of the number of distance learning courses received by a particular home-schooled or private school student.

(d) A home-schooled student or a private school student enrolled in a distance learning course shall not be entitled to any rights, privileges, courses, activities, or services available to a public school student or open-enrollment public charter school student other than receiving appropriate credit for a completed distance learning course.

(e) This section shall not be construed to entitle a home school student or private school student to participate in, enroll in, or attend any other courses, activities, or services provided by a public school district or an open-enrollment public charter school.

(f)(1) Before a public school district or public charter school offers or teaches to public school students, home-schooled students, or private school students distance learning courses that are not part of the curriculum required by the Standards for Accreditation of Arkansas Public Schools and School Districts established by the state board, the public school district or public charter school first shall obtain approval of the distance learning courses by the department.

(2) A course offered under this subsection shall follow department course frameworks.

(g) No public school district or open-enrollment public charter school shall establish or provide a virtual school or distance learning course except as allowed by this section.

(h) This section shall not be construed to require a home school student or private school student to take any test or assessment not specifically required for completion of the course for which the student is enrolled.

History. Acts 2005, No. 2325, § 2; 2009, No. 1469, § 27.

Amendments. The 2009 amendment rewrote (a)(2) and (f); substituted “or oth-

erwise” for “and otherwise” in (a)(3); inserted “course taught to a” in (c)(1); and added (h).

CHAPTER 48

ALTERNATIVE LEARNING ENVIRONMENTS

SECTION.

6-48-101. Definitions.

6-48-102. Alternative learning environment required — Reporting.

SECTION.

6-48-103. Assessment and intervention services.

6-48-104. Department of Education responsibilities.

Effective Dates. Acts 2011, No. 1118, § 5: July 1, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that it is the constitutional obligation of the state to ensure that the state’s public school children receive an equal opportunity for an adequate education; that to ensure that opportunity, it is essential that the state’s public schools and education service cooperatives operate effective alternative learning environments; that the immediate effectiveness of this bill is necessary for the implementation of the funding changes and for the public

schools and education service cooperatives to operate effective alternative learning environments under this bill throughout the state by the 2011-2012 school year; and that any delay in the effective date of this act could work irreparable harm to the quality of education available to students who are educated in alternative learning environments in this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2011.”

6-48-101. Definitions.

As used in this chapter:

(1)(A)(i) “Alternative learning environment” means an alternate class or school that affords all students an environment that seeks to eliminate barriers to learning for students whose academic and social progress are negatively affected by the student’s personal characteristics or situation.

(ii) The Department of Education shall by rule more fully define the student’s personal characteristics and situations applicable under this chapter.

(B) An alternative learning environment is not a punitive environment but one that is conducive to learning; and

(2) “Intervention services” means activities within or outside a school that will eliminate traditional barriers to learning.

History. Acts 2011, No. 1118, § 4.

6-48-102. Alternative learning environment required — Reporting.

(a)(1) A school district shall provide one (1) or more alternative learning environments for all students who meet the minimum criteria established by the Department of Education.

(2) A school district complies with this section if the school district provides an alternative learning environment by one (1) or more of the following methods:

(A) Establishes and operates an alternative learning environment;

(B) Cooperates with one (1) or more other school districts to establish and operate an alternative learning environment; or

(C) Uses an alternative learning environment operated by an education service cooperative established under The Education Service Cooperative Act of 1985, § 6-13-1001 et seq.

(b) Annually, a school district shall submit to the department:

(1) Information on race and gender of the students educated in the alternative learning environment;

(2) Any other information regarding students educated in alternative learning environments that the department requires by rule; and

(3) An assurance statement that the school district is in compliance with this chapter.

History. Acts 2011, No. 1118, § 4.

6-48-103. Assessment and intervention services.

(a) An alternative learning environment shall:

(1) Assess a student either before or upon entry into the alternative learning environment; and

(2) Provide intervention services designed to address a student's specific educational needs.

(b)(1) A student assigned to an alternative learning environment for behavioral reasons shall receive intervention services designed to address the student's behavioral needs.

(2) The intervention services shall not be punitive in nature but shall be designed for long-term improvement of the student's ability to control his or her behavior.

History. Acts 2011, No. 1118, § 4.

6-48-104. Department of Education responsibilities.

(a) The Department of Education shall promulgate rules to implement this chapter, including without limitation rules that establish:

(1)(A) The criteria for distributing state funding for alternative learning environment programs.

(B) The criteria shall identify the characteristics of students who may be counted for the purpose of funding an alternative learning environment program including without limitation that a student is

educated in the alternative learning environment for a minimum of twenty (20) consecutive days.

(C) If a student is educated in the alternative learning environment for fewer than twenty (20) days, the department may provide funding to a school district based on the actual number of days the student is educated in the alternative learning environment if the student:

(i) Leaves the school district to transfer to another alternative learning environment; or

(ii) Is placed in a residential treatment program;

(2)(A) The criteria for teacher training for teachers in alternative learning environments, including without limitation:

(i) In-service training in classroom management; and

(ii) Training in additional areas related to the specific needs and characteristics of students who are educated in alternative learning environments.

(B) The department shall award professional development credit for the training under this subdivision (a)(2); and

(3) Measures of effectiveness for alternative learning environments that measure:

(A) For the students educated in the alternative learning environment the effect on the students':

(i) School performance;

(ii) Need for intervention; and

(iii) School attendance and dropout rate; and

(B) Any other characteristic of alternative learning environments deemed necessary by the department.

(b)(1) As part of the department's accreditation review of a school district under § 6-15-202, the department shall evaluate each alternative learning environment to ensure that the alternative learning environment is:

(A) Established and operated in compliance with this chapter; and

(B) Effective under the measurements established by the department under this section.

(2) The department shall identify a school district's noncompliance with this chapter on the school district's annual report card.

(c) The department shall identify information concerning best practices for educating students in alternative learning environments and disseminate that information to teachers and administrators working in alternative learning environments.

(d) Annually by September 15 the department shall provide to the interim House Committee on Education and the interim Senate Committee on Education a report on:

(1) The information reported to it under § 6-48-102; and

(2) The effectiveness of alternative learning environments evaluated under this chapter.

